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BY COMPROMISE . *John Brown Mason*

THE
Danzig Dilemma



Albert Forster
Gauleiter von Danzig

Danzig, den 20. September 1939

Herrn
Reichsleiter Philipp Bouhler,
Berlin.

Lieber Parteigenosse Bouhler !

Der Führer hat gestern auf meinen Wunsch anlässlich der Wiedervereinigung Danzigs mit dem Reich den in beiliegender Liste genannten Parteigenossen das Goldene Ehrenzeichen der NSDAP. verliehen. Der Führer hat die Originalliste, die sich in meinem Besitz befindet, unterschrieben.

Ich wäre Ihnen dankbar, wenn Sie diese 15 Ehrenzeichen mit dem "19. September 1939" gravieren lassen würden.

Wenn ich nächstens nach Berlin komme, werde ich mir die Abzeichen bei Ihnen abholen und mit nach Danzig nehmen.

Der Einzug des Führers in Danzig war eine phantastische Angelegenheit. Er war von der Schönheit Danzigs ganz begeistert. Unser neues Haus hat ihm ebenfalls ausgezeichnet gefallen. Wir Alle sind glücklich, den Führer nun auch bei uns gehabt zu haben.

Mit besten Grüßen in alter Freundschaft und

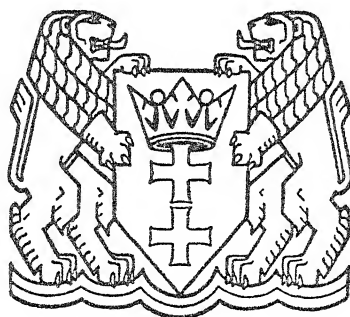
Heil Hitler !

Ihr

THE
Danzig Dilemma

A STUDY IN PEACEMAKING
BY COMPROMISE

by JOHN BROWN MASON



Seal of the City of
Danzig since 1453

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TO

KATHRYN HARROD MASON

FOREWORD

Danzig, one-time part of the domain of the Teutonic Knights and later nominal vassal of Poland, a powerful member of the Hanseatic League, a great seaport of Prussia, and after the first World War a Free City under the League of Nations, has always been a European danger spot. Few areas of its size in the world have had a more checkered history. Today it again faces an uncertain future, with its destiny to be decided at the peace table. Pole and Teuton once more will see their vital interests a pawn on the chessboard of world politics. Once more the Great Powers face the problem of giving Poland an access to the sea through a great German city. The Danzig dilemma is still unsettled, and a just and permanent solution will again tax the wisdom and the vision of the statesmen striving for a permanent and equitable peace.

Dr. John Brown Mason has written an objective and scholarly account of Danzig, with particular emphasis upon the political and economic problems presented at the Paris Peace Conference and the administrative problems which arose while Danzig was under the protection of the League of Nations. He has not only documented his study carefully from all available printed sources but has spent considerable time in Danzig investigating the problem at first hand. The result of his labors is an impartial, exhaustive presentation of the Danzig problem as it will be presented to the Peace Conference concluding World War II.

Certain areas, such as Danzig, Tangier, and Shanghai, seem to require some kind of international administration. The experiences of the past should assist the political planners of the future to avoid some of the mistakes of their predecessors. This excellent presentation of *The Danzig Dilemma* by Dr. Mason is a timely contribution to the study of the problem of international administration.

GRAHAM H. STUART

STANFORD UNIVERSITY, CALIFORNIA
December 1, 1945

DANZIG, September 20, 1939

ALBERT FORSTER
GAULEITER OF DANZIG

TO HERR
REICH LEADER PHILIPP BOUHLER
BERLIN

Dear Fellow Party Member Bouhler:

On the occasion of Danzig's reunion with the German Reich, and at my request, the Führer yesterday awarded the Golden Party Badge of Honor to the Fellow Party Members mentioned on the enclosed list. The Führer signed the original list, which is in my possession.

I should be grateful to you if you would have the words "September 19, 1939" engraved on these fifteen insignia of honor.

When I come to Berlin in the near future I shall call for the insignia and take them back to Danzig.

The entrance of the Führer into Danzig was a fantastic event. He was enraptured by the beauty of Danzig. He also liked our new party headquarters very well. ALL of us are happy to have had the Führer with us.

With best regards, in old friendship, and

Heil Hitler!

Your

ALBERT FORSTER

[Translation of the Frontispiece letter]

PREFACE

The writer is deeply indebted to various friends and colleagues as well as to institutions and endowments for invaluable aid in the preparation of this study.

Parts of the manuscript were read by Professor Pitman B. Potter, of American University, managing editor of the *American Journal of International Law* (chaps i, iv-vi, xiv, xvii); and parts by Miss Nina Almond, librarian (chap iii), Professor H. H. Fisher, director, (chaps. i-iii), and Dean Ralph H. Lutz, former director (chap. iii) of the Hoover Library on War, Revolution, and Peace, Stanford University; and parts by Mr. Robert B. Schwenger, of Kensington, Maryland. The entire manuscript was read by Dr. Ewart Lewis of Oberlin, Ohio, by Professor John D. Lewis of Oberlin College, Oberlin, Ohio, and by Mr. Andrew B. Foster of Chevy Chase, Maryland. While the manuscript has greatly benefited by their many suggestions, the author, of course, is responsible for all statements of facts or of opinion.

A special word of appreciation is due to Professor Graham H. Stuart, of Stanford University, editor of Stanford Books on World Politics, who encouraged the writing of this study and who proved very helpful throughout its progress.

Thanks are also due to Professor Wm Hawley Davis, editor of the Stanford University Press, and his staff for their interest and able assistance, and to Mr. Stanley P. King of the Food Research Institute, Stanford University, for the preparation of the map. The writer is grateful also to Mrs John W. Guerard of Fresno, California, for stylistic and grammatical improvements in the text.

A grant-in-aid from the Social Science Research Council made possible the completion of this study, which originated while the writer held a Carnegie Fellowship in International Law permitting research in Geneva, Berlin, Danzig, Warsaw, and Lwów (Lemberg). The publication of this volume has been aided by the American Council of Learned Societies from a fund provided by the Carnegie Corporation of New York. Sincere appreciation is hereby expressed to these institutions for their interest and assistance.

Acknowledgments are also due for permission to use the valuable collections of the Hoover Library on War, Revolution, and Peace at

Stanford University, where most of the writing was done; and to the libraries at Stanford University, the University of California (Berkeley), the University of Chicago, the University of Wisconsin, and Fresno State College, and for the helpful assistance of the staffs of these libraries.

In foreign countries, research materials were made available at the Library of the League of Nations at Geneva, at the Preussische Staatsbibliothek, the Universitätsbibliothek, and the Institut für ausländisches öffentliches Recht und Völkerrecht in Berlin, at the Stadtbibliothek and the Staatsarchiv in Danzig, and at the Library of the Jan Kasimir University in Lwów.

Among foreign scholars, government officials, and publicists too numerous to enumerate, special thanks are due to a number of men in Geneva, Danzig, Germany, and Poland who were very helpful in the earlier stages of this study. Their wide knowledge, their divergent views, and their frequently deep feelings on the subject of the Free City of Danzig provided a challenge to the writer. He has attempted to furnish a description and analysis of the complicated international problems brought into relief by the word "Danzig" that may be acceptable as a factual, objective basis for further study, reflection, and future peace planning, even if all readers may not agree with the opinions and conclusions here expressed. It is also hoped that the experience of the Free City will be found of value in solving similar problems, such as that of Trieste.

JOHN BROWN MASON

WASHINGTON, D.C.
October 15, 1945

ADDENDA

The frontispiece to this book is a reproduction of the letter of Albert Forster, *Gauleiter* of the Danzig district of the Nazi Party and Hitler's trusted lieutenant in the Free City, more powerful than its government. Reich Leader Bouhler, to whom the letter was written, was one of nineteen Reich Leaders, highest officials of the Nazi Party.

The stamp in the lower left-hand corner of the letter indicates that Forster's letter was received in the Chancellory of the Fuhrer, where the author of this book found it in the summer of 1945. The marginal note, which was in red pencil, directs the preparation of these special insignia.

After this manuscript had been set in pages the author was able to secure in Germany a copy of Georg Crusen's detailed study *Der Pariser Vertrag vom 9. November 1920*. According to a conversation with Dr. Crusen, retired former Chief Justice of the Free City, his book was printed in 1936 but was suppressed immediately on the pretext that it would give valuable information to the Polish government. Of the 500 copies printed, some ten or twelve were allowed to be distributed among high Danzig officials and "trusted" German professors of international law. The others were impounded by the German (!) Foreign Office. Their fate is unknown. Dr. Crusen himself had only one copy which the writer has deposited in the Hoover Library for War, Revolution, and Peace. References to Crusen's study have been added wherever it was possible to do so without remaking pages, though lack of space makes it necessary to cite only author and pages, without repeating the title.

J.B.M.

ACKNOWLEDGMENT TO AUTHORS, EDITORS, AND PUBLISHERS

Permission to quote passages from the following books is gratefully acknowledged Catherine Snell Crary, "The Free City of Danzig Its Economic and Political Development since the Peace Treaty" (unpublished doctoral dissertation, Radcliffe College), and Andrew Brisbin Foster, "The Free City of Danzig. A Study in Politics and Economics" (unpublished MS). Also Ray Stannard Baker, *Woodrow Wilson and World Settlement* (Doubleday, Doran and Company, Inc.); Paul Birdsall, *Versailles Twenty Years After* (Reynal and Hitchcock, Inc.); J. L. Brierly, *The Law of Nations* (Oxford University Press), Raymond Leslie Buell, *Poland Key to Europe* (Alfred A. Knopf, Inc.); Roman Dyboski, *Outlines of Polish History* (George Allen and Unwin, Ltd.); H. H. Fisher, *America and the New Poland* (The Macmillan Company), Charles Homer Haskins and Robert Howard Lord, *Some Problems of the Peace Conference* (Harvard University Press) (reprinted by permission of the President and Fellows of Harvard College); R. Yorke Hedges, *International Organization* (Pitman and Company); Jan Hostie, *Questions de principe relatives au statut international de Dantsig* (Bureau de la Revue de Droit international et de Législation comparée, Brussels). Sisley Huddleston, *Peace-Making at Paris* (Ernest Benn, Limited); Charles C. Hyde, *International Law as Interpreted by the United States* (Little, Brown and Company); Hans L. Leonhardt, *Nazi Conquest of Danzig* (University of Chicago Press); M. M. Lewis, "The Free City of Danzig," *British Yearbook of International Law*, 1924 (Royal Institute of International Affairs and the Oxford University Press), David Lloyd George, *The Truth about the Peace Treaties* (Curtis Brown, Ltd.), Alma Luckau, *The German Delegation at the Peace Conference* (Columbia University Press, copyright by the Carnegie Endowment for International Peace), David Hunter Miller, *My Diary at the Conference of Paris with Documents* (Privately printed); Jan F. D. Morrow, *The Peace Settlement in the German-Polish Borderlands* (Royal Institute of International Affairs and the Oxford University Press); Harold Nicolson, *Peacemaking, 1919* (Harcourt, Brace and Company, Inc.); L. Oppenheim. *International Law* (Long-

mans, Green and Company); W. F. Reddaway, J. H. Penson, O Halecki, and R. Dyboski, *The Cambridge History of Poland. From August II to Pilsudski (1697-1935)* (Cambridge University Press); Charles Seymour and Edward M. House, *What Really Happened at Paris* (Charles Scribner's Sons); Charles Seymour, *The Intimate Papers of Colonel House* (Houghton Mifflin Company); William Shirer, *Berlin Diary* (Alfred A. Knopf, Inc.); Casimir Smogorzewski, *Poland, Germany and the Corridor* (Williams & Norgate, Ltd.); Casimir Smogorzewski, *Poland's Access to the Sea* (George Allen & Unwin, Ltd.), H. W. V. Temperley, *A History of the Peace Conference of Paris* (Hodder and Stoughton).

Appreciation is also due to the editors of the *World Affairs Interpreter* and the *Rocky Mountain Law Review* to quote from articles by the present writer.

J. B. M.

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THE
Danzig Dilemma

I

THE DANZIG DILEMMA

Twenty crowded years of history for the Free City of Danzig were at an end when Adolf Hitler entered the ancient Hanseatic town on September 19, 1939, declaring in his speech at Arthur's Court that he had vowed not to visit Danzig until it had returned to the Reich.¹ On the first day of that month, the National Socialist government of Danzig had declared its reunion with Germany,² while the guns of the German battleship "Schleswig-Holstein" were beginning the week-long bombardment of the Polish munitions depot in the Danzig harbor.³ Although no other fighting took place on the Free City's territory, it is historically significant that after the "last shot" of the German-Polish war had been fired near Warsaw on September 28 an isolated band of Polish soldiers was still holding out on the peninsula of Hela⁴ across the beautiful bay of Danzig.

The brave and tenacious Polish stand on that outpost of the Corridor was characteristic of the intensity of the struggle between Teuton and Pole over Danzig and the neighboring region where they had long faced and fought each other. Although Hitler used the separation of Danzig from Germany and the existence of the Corridor as an excuse for launching his attack on Poland,⁵ the real causes of the conflict went deeper and were buried in past centuries. The Free City of Danzig, established in 1920 under the provisions of the Treaty of Versailles, was but the most recent of many attempts to simplify, if not to solve, the long-standing problems⁶ resulting from the overlapping *Lebensraum* of two expanding nations in a geographically and economically strategic area.

¹ Friedrich Heiss (ed.), *Danzig im Reich* (Berlin, 1939), p. 42.

² *Ibid.*, pp. 7-8

³ For an eyewitness account see William Shirer, *Berlin Diary* (New York, 1941), pp. 213-16

⁴ Otto D. Tolischus, *They Wanted War* (New York, 1940), p. 302.

⁵ See Hitler's letter to M. Daladier, demanding "Danzig and the Corridor must return to Germany"; also the German official pronouncement in answer to the French Yellow Book on the causes of the war, quoted in Tolischus, *They Wanted War*, pp. 268, 284-88.

⁶ John Brown Mason, "The Free City of Danzig—A Noble Experiment?" *World Affairs Interpreter*, Summer 1938, pp. 168-73.

DANZIG'S DILEMMA: POLAND'S ACCESS TO THE SEA
VIA A GERMAN CITY

When the Polish state was re-established as a result of the first World War, the Allied Powers wanted to give it a "free and secure access to the sea," as promised in President Wilson's Fourteen Points. Poland, not wishing to begin her new existence landlocked and surrounded entirely by hostile states, demanded that in addition to the Polish Corridor, which had no port, the city and harbor of Danzig be given to her. Although in the dim past Danzig had in fact been a settlement of Slavic fishermen, and later a part of Poland, it was also true in 1919 that her population had been German for centuries. Clemenceau himself admitted that "for a long time the population has been German by a large majority." In addition, there was in Wilson's program another Point which called for the principle of self-determination of a people, the right to choose its own national rulers. Much as some of the Allies wished to help the Poles at the expense of the Germans, they did not dare to violate this principle too flagrantly. When Lloyd George warned them at the Paris Peace Conference, "Gentlemen, if we give Danzig to the Poles the Germans will not sign the treaty, and if they do not sign, our work here is a failure," a compromise solution was worked out.

As the strict and radical application of either of the two doctrines would have nullified the other, Danzig was taken away from Germany without being incorporated in Poland. It was made a Free City, placed under the protection of the League of Nations, and endowed with a status of its own. Poland was given extensive and important rights in the Free City—rights not usually granted to a foreign power—thus providing her with access to the sea without putting close to four hundred thousand Germans under Polish rule. These privileges included rights to the use of the port and the railroads of Danzig and to postal and telegraphic facilities; they also involved the inclusion of Danzig in the Polish customs system and guaranties for Poland concerning the conduct of the Free City's foreign relations.

THE FREE CITY

Geographically, Danzig is located on a large bay of the Baltic Sea, with the Hela Peninsula affording a great degree of protection from the storms of the sea, to whose fury its large cemetery for unknown sailors and fishermen gives eloquent if mute testimony.

The territory of the Free City comprised 754 square miles, or

about one-third as much as the state of Delaware,⁷ including the cities of Danzig, Zoppot, Tiegenhof, and Neuteich, as well as 252 villages and 63 hamlets, with a total population in 1919 of 357,000, which ten years later had increased to 408,000, the district (*Stadtkreis*) of the city of Danzig alone numbered 195,000, at the earlier date, and 235,000 in 1929. Of the population in 1929, 224,000 were Evangelical Protestants, 157,000 Roman Catholics, and 10,000 Jews, while the rest belonged to a few other denominations or had no church affiliation.⁸

THE GERMAN CHARACTER OF DANZIG

The population of the Free City was predominantly German. According to the census of 1923, which provided detailed linguistic information in addition to the usual census data, the Free City territory had 366,730 inhabitants, of whom 30,809 were foreigners. Of the total number, 348,493 spoke German habitually, 12,027 spoke Polish (or Kashub and Masurian, two Slavic dialects related to Polish), and 1,629 were bilingual, using both German and Polish.

CENSUS OF NOVEMBER 1, 1923¹

Nationality	Total Number of Persons	German	German and Polish	Polish, Kashub, Masurian	Russian, Ukrainian	Hebrew, Yiddish	Un- classi- fied
Danzig	335,921	327,827	1,108	6,788	99	22	77
Non-Danzig'	30,809	20,666	521	5,239	2,529	580 ⁺	1,274
Total population	366,730	348,493	1,629	12,027	2,628	602	1,351

¹ *Statshandb.ich der Freien Stadt Danzig* (Danzig, 1926), p. 160

⁺ Including 11 Yiddish and Polish, 12 Yiddish and Russian

Prior to this census, the Allied and Associated Powers had admitted at the Peace Conference that "the large majority of the population of Danzig is and has been German for a long time"⁹ The enforced separation of the city from the Fatherland was protested by its inhabitants in the giant demonstrations of March 23 and April 25,

⁷ About the size of the Saar Territory.

⁸ *Danziger Statistisches Taschenbuch*, 1933, official publication of the Free City government, pp. 14, 16; cited by Andrew Brisbin Foster, "The Free City of Danzig, A Study in Politics and Economics" (unpublished manuscript, 1935), Appendix A, p. iii. This appendix contains pertinent charts. This manuscript is hereafter cited as Foster MS, "The Free City of Danzig."

⁹ "Reply of the Allied and Associated Powers (June 16, 1919) to the German Observations on the Peace Terms," in H. W. V. Temperley (ed.), *A History of the Peace Conference of Paris* (London, 1920-24), II, 292. Hereafter cited as *Peace Conference of Paris*.

1919, attended by as many as 70,000 and 100,000 people.¹⁰ In the general elections held after the establishment of the Free City, the German parties attracted from 93.8 to 96.9 per cent of the votes, while only 6.2 to 3.1 per cent went to the Poles.¹¹ High Commissioner Haking stated in his Decision of September 5, 1921: "... almost the whole of the inhabitants of Danzig (possibly without exception) talk German and the vast majority are unable to talk Polish."¹² In Morrow's view, writing in 1935, Haking's words "have lost none of their truth with the passage of fourteen years."¹³

Except for the special conditions resulting from the establishment of the Free City and her special relationship to Poland, the Constitution and laws of Danzig were remarkably similar to those of the German Republic. In many instances constitutional or legal provisions were identical. The structure of the Free City's government was modeled after those provided for in the 1919 constitutions of Weimar and the city-republic of Lubeck. Danzig officials were German-trained and were freely exchanged with civil servants from the Reich as Danzigers were accepted into the German government service and Reich officials were called to Danzig.¹⁴ Throughout her existence as a Free City, her political and cultural life was characteristically German in all its aspects, including the bad ones.

THE POLISH MINORITY

The Polish inhabitants, whether citizens of Danzig or not, enjoyed special minority rights which were embodied in the Treaty of Versailles, in the Constitution of the Free City, and in agreements between Poland and Danzig. In general these rights corresponded to the racial, religious, and linguistic guaranties provided for in the European minority treaties after the first World War. Unfortunately, between the two governments there was continual friction and controversy over the Polish minority, a controversy not settled in its main issues until 1933.

As mentioned, the 1923 census data showed a total of 12,027 Polish-speaking inhabitants, counting the Kashubian and Masurian dialects as Polish, plus 1,629 bilingual residents, speaking both Polish and German. Mr. Foster reports that on June 16, 1934, Danzig

¹⁰ Erich Keyser, *Danzigs Geschichte* (Danzig, 2d ed, 1929, p. 262).

¹¹ Jan F. D. Morrow, *The Peace Settlement in the German-Polish Borderlands* (London, 1936), p. 109.

¹² *Decisions of the High Commissioner, League of Nations, Free City of Danzig, 1921*, p. 30.

¹³ Morrow, *op. cit.*, p. 109. Hereafter cited as *Peace Settlement*.

¹⁴ See below, pp. 70-71.

police registration records showed 17,000 Polish nationals residing in the Free City,¹⁵ in addition to an undisclosed number of Polish-speaking Danzig nationals. He estimates that at that time the Free City had about 25,000 inhabitants of Polish speech—or about six per cent of the total population—of whom approximately seven thousand were citizens of Danzig, while most of the others were subjects of Poland.¹⁶

Polish publicists offer different sets of figures concerning the size of the Polish-speaking population of Danzig. The extreme is represented by Casimir Smogorzewski, who claimed a third of the Roman Catholic population of the Danzig diocese as Polish;¹⁷ that would mean a total of some 47,000 Polish Catholics, a figure for which there is no other support.

Other Polish claims were more moderate. In 1928 when the present writer visited Warsaw to gather data on Polish attitudes toward Danzig, Mr. Orłowski, Chief of the Danzig Section of the Foreign Office, estimated that not more than six per cent of the Danzig citizens and not over ten per cent of the residents (including foreigners) were Polish. Mr. Henryk Strasburger, one-time Polish Diplomatic Representative in the Free City, and other Polish writers have claimed a figure of some twenty thousand for the Polish minority, including both Danzig and Polish nationals,¹⁸ a total which about coincides with Morrow's estimate of not more than five per cent of the total population.¹⁹

Some indication of the size of the Polish element among Danzig citizens is contained in the election statistics. The number of votes cast for the two Polish parties ranged from a high of 9,321 (6.2 per cent of the total vote) at the 1920 election to a low of 5,764 (3.1 per cent) in 1927.²⁰ In the 1933 and 1935 elections the Polish party totals were 6,743 and 8,310, respectively.²¹

¹⁵ According to written statement addressed to him by the Department of Foreign Affairs of the Danzig Senate on June 16, 1934; see Foster MS, "The Free City of Danzig," Appendix A, p. III.

¹⁶ *Ibid.*, p. 253.

¹⁷ In his book, *La Pologne restaurée*, quoted in Morrow, *Peace Settlement*, p. 109.

¹⁸ According to Morrow, *Peace Settlement*, p. 109, note 5.

¹⁹ *Ibid.*, p. 109.

²⁰ According to Morrow, *Peace Settlement*, quoting Henryk Strasburger, "Danzig port de Pologne" in *La Pologne et la Baltique*, by G. Pages et al. (Paris, 1931), p. 291.

²¹ "Special Report of the High Commissioner of the League." *Official Journal*, 1935, Part I, p. 825.

THE ROLE OF THE LEAGUE IN DANZIG-POLISH DISPUTES

Obviously the Danzig situation was fraught with grave international dangers. Between the Poles and the Germans in Danzig existed deep-seated racial antipathies, aggravated by historical wrongs each had suffered at the hands of the other. Most important of all, Poland was a nation of some thirty million people, confronting a mere four hundred thousand people in Danzig.

The Allied Powers, foreseeing disputes, proceeded to provide methods of settling them by peaceful means. They put complete jurisdiction over all differences arising between Danzig and Poland in the hands of the League, acting through a resident High Commissioner, to whom all matters "affecting the relations between Poland and the Free City" might be referred by either party. His decisions could be appealed to the League Council.

Until 1933 hardly a meeting of the League Council passed without consideration of some matter concerning the Free City. Like problem children elsewhere, Danzig received a great deal of study and attention. A large number of disputes between her and Poland involved such varied questions as railways, the status of Polish nationals in Danzig and that of Danzig nationals in Poland, also communications and military questions, as well as the conduct of the Free City's foreign relations.

Did the Poles, for instance, have the right to ship war materials via Danzig when they had their own port of Gdynia to expose to the dangerous explosives? Should Polish warships be allowed to anchor in the Danzig port when they had harborage of their own a few miles to the east? All of these and many more questions were passed upon by the busy High Commissioners, who sighed many times under the burden of their weight and intricacy. The League Council did not always prove able to keep up with the disputes; early in 1933 twenty-five were still pending in Geneva.

THE LEAGUE CONTEST WITH NAZISM

In that memorable year of 1933 the Nazis came into power in the Free City as well as in Germany. To the surprise of everybody, including most of the Nazi rank and file, relations between the new government of Danzig and that of Poland improved considerably. An understanding was reached to the effect that all future differences would be settled by direct negotiations between them, without the help of the League of Nations. By agreeing to this Nazi proposal the Poles helped to undermine the effectiveness and prestige of the

League and contributed further to their own isolation brought about by their rapprochement with Hitler

Nevertheless the League continued to be kept busy with Danzig affairs. While in the past the Poles and the Danzigers had complained bitterly about each other, they now appeared fairly amicable. However, many Danzigers began to denounce bitterly their own government, they were opposed to Nazism and wished to say so in public. By asking for help against their fellow-countrymen, they put the League in a most delicate situation. This was due to the fact that the League setup concerning Danzig was really twofold, one part dealing with Danzig-Poland relations, the other attempting to make Danzig safe for democracy.

In 1933 the Free City had a Nazi government which wished to make Danzig a miniature Third Reich. Hitler had been voted into his Third Reich office, and then had done away with the Constitution which made such things possible. Although the Danzig Nazis hoped to do the same thing on a smaller scale, in the election of April 7, 1935, they polled only 57 per cent of the total vote (incidentally, an interesting expression of German sentiment where elections were free), whereas they needed a two-thirds majority as well as the consent of the League Council in order to change their Constitution. Therefore they proceeded to twist and bend the Constitution to serve their purposes. Since in this process parts of the Constitution were broken off, the anti-Nazis in Danzig insisted that the League put them back where they belonged, claiming that certain measures of an anti-Catholic or anti-Jewish character and measures dealing with the freedom of the press, of speech, and of elections and with personal liberty were unconstitutional. In support of their stand they dug up a resolution of the League Council of 1920 to the effect that "the constitutional life of the Free City of Danzig must always be in accordance with the terms of this democratic Constitution" (curiously enough, a subject of the Emperor of Japan had proposed the resolution).

The Catholics, Socialists, and Jews in Danzig, tucking this Council resolution of 1920 under their arms, hurried to Geneva, where they petitioned the League of Nations for restoration of their domestic constitutional rights. The Council, puzzled like other mortals by questions of constitutional law, finally appointed a special Committee of Jurists—one Dane, one Swede, and one Swiss—to determine to what degree the Constitution of Danzig had been violated. They found several infractions. Soon afterward another action by the Danzig government was declared unconstitutional in an Ad-

visory Opinion of the World Court. The League Council was embarrassed. What should it do?

The simple fact was that the National Socialists in the Free City were feverishly busy creating a Danzig government exactly after the Hitler model, not only because they wished to be in power, but also—and this was very important—because the 1935 election in Danzig showed over forty per cent of the population to be in opposition to the Nazis in spite of all attempts to convert or intimidate them. Such a showing must of necessity create a bad impression in the Third Reich; the Nazis were therefore bound to try to get rid of all opposition within the Free City, by any and all means at their disposal. Since their efforts coincided largely with the period of decline of the League of Nations, their strong-arm methods proved successful.

DANZIG AND THE POLISH CORRIDOR

Often as Danzig and the Corridor have been linked in public print, their problems were not identical.²² Comprising the major part of the old Province of West Prussia, known as Pomorze under the Polish rule, the Corridor contained some 6,290 square miles, an area roughly the size of Connecticut and Rhode Island combined. From a narrow width of twenty miles near Danzig it widened to fifty or sixty miles from Pomerania to East Prussia and to more than a hundred between the pre-1914 Russo-German frontier and the Baltic Sea. In addition to being important as Danzig's geographic back door, the area had a varied and distinctive economic character. The forested, slightly mountainous northern section gives way to rolling plains, cultivated by industrious and capable peasants, who normally reap a plentiful harvest of livestock, grains, potatoes, and sugar beets; in good times their surplus of agricultural commodities was shipped abroad or sent to the interior of Poland. This was due primarily to the more advanced German type of farming in this part of Poland, contrasting sharply with that of other parts of the country. In the south there is a considerable amount of industry, with scattered towns, notably Bromberg, Thorn, and Graudenz. In the area close to Danzig, the one-time tiny fishing village of 300 people known as Gdynia, transformed by Poland into a modern port, literally dug out of the shoreline and built into the water in a place where nature had made no provision for a harbor, expanded with

²² For an excellent study of the Corridor problem see Morrow, *Peace Settlement*, chapters vi-xiii.

amazing speed into a city of over 100,000 population.²³ Since the Corridor comprised approximately a million people, over half of whom were Polish, with a few Kashubians, also Slavic in origin, and about 385,000 Germans (in 1910)²⁴, it had its own economic as well as strategic importance, both greatly enhanced as the years went by

More important still, the Corridor served as a kind of economic crossroads, where the commerce between the Reich and East Prussia met the Polish trade moving to and from the sea. The Free City of Danzig, on the other hand, only one-eighth the size of the Corridor, was a highly developed shipping and commercial center with a population of 400,000, of which 95 per cent were German.

As an able student of the problem puts it:

The Free City and the Corridor are contiguous, it is true, and there are bonds between them; but they are divided in race and religion, in politics and in culture, and they perform distinct economic functions. It is this division which explains the creation of Gdynia, while in turn Gdynia heightens the contrast between Danzig and the Corridor.²⁵

GDYNIA—RISE OF A RIVAL

After Danzig had been shorn of her importance as a German military and naval center and had become a free city, expected to live in close collaboration with Poland, commerce again provided her economic lifeblood. Owing to her geographic position, she had been a trading center for 900 years. In direction, her commerce had shifted in historic periods and changed in character, "now moving

²³ "The city itself looks like a mushroom growth, much like our Western towns of thirty-five years ago" (Shirer, *Berlin Diary*, p. 176).

²⁴ The official German census figures for 1910 were 528,000 Poles (including Kashubians), and 385,000 Germans; see H. W. V. Temperley, *Peace Conference of Paris*, II, 214-15. The Polish census of 1931 lists 1,086,000 people in the province of Pomorze, of whom 977,000 were Polish-speaking and 110,000 (10.1 per cent) German-speaking; see Foster MS "The Free City of Danzig," Appendix A, p. ii, quoting *Pierwsze Tymczasowe Wyniki Spisu Andnosci Z Dn. 9 Grudnia 1931 R.* (Warsaw, 1932). Foster also refers to the ethnographic map on p. 6 of the *Rzeczpospolita Polska Atlas Statystyczny* (Statistical Atlas published by the Central Statistical Office of the Republic) (Warsaw, 1930). The Poles do not count the Kashubs separately. Many Poles had, of course, come into Pomorze since 1919, while many Germans had departed. The writer recalls a statement made to him in 1928 by Freiherr von Thermann, German Consul-General in Danzig (later well known as the Nazi ambassador to Buenos Aires), to the effect that his office was refusing consular visas to Germans living in the Corridor and wishing to move to Germany, since Berlin wanted as large a German population as possible to remain in the Corridor.

²⁵ Foster MS, "The Free City of Danzig," p. 3. Quoted by permission.

from east to west and now from south to north, ebbing and flowing with the changing structure of European society."²⁶ But, whatever the changes in trade, it had remained the mainstay of the city's economic life. Now it came again into its own—at least, so it looked according to statistics.

The profound differences between the Germans, who deeply resented being torn from their Fatherland, and the Poles, equally resentful because they did not get control of the city and the port were not allayed by the fact that Danzig's commerce assumed greater proportions after the establishment of the Free City than at any time during the nineteenth and twentieth centuries.

Nor was the situation improved by the competition of the new port of Gdynia,²⁷ located only eleven miles west of Danzig where the Polish Corridor meets the sea. By 1933, it had outdistanced ancient Danzig in volume and value of goods handled. The "up-start" port, on which Danzigers had looked first with contempt and then with growing anxiety, had become a powerful weapon in the hands of Poland and an implicit threat to the economic existence of the Free City. The clash between the two rivals led to intensified disputes between the Free City and Poland that put a heavy strain on the League of Nations machinery for settling them.

When the Nazi government came into office in Danzig in May 1933, a broad agreement was concluded²⁸ that seemed to settle this as well as other outstanding issues. But the Nazi attitude was obviously based upon the desire of the Hitler government to have peaceful relations with Germany's eastern neighbor while it was busy in the west and south, reoccupying and refortifying the Rhineland, building a navy, annexing Austria, and destroying Czechoslovakia's independence.

When it became evident that France and Great Britain were not willing or able to put a stop to Nazi expansion, Poland found out by bitter experience that Hitler's promises could not be relied on—not even his signature on the solemn Treaty of 1934, proposed by him and guaranteeing the mutual boundaries of Germany and Poland for ten years. It was obvious now that the Nazis, merely biding their time, had effectively neutralized Poland by protestations of good will and an apparent readiness to settle disputes on an amicable basis.

²⁶ Foster MS, p. 6

²⁷ See below, pp. 130 ff

²⁸ See below, p. 137

DANZIG—A SYMBOL OF DEFEAT

The repossession of Danzig by the Reich was as much a necessity for the Nazis as it was an answer to the patriotic prayers of Germans of all classes, creeds, and political beliefs. In fact, because of the age-old struggle between the Slav and the Teuton along Germany's eastern boundaries, the very German character of the city, and the great charm of Old Danzig, the city became a symbol of Germany's "bleeding borders" which endeared itself to Germans beyond the comprehension of the average foreigner. Emotions thus became identified with one of the hardest problems tackled by the Paris Peace Conference.

When Hitler had achieved his aims elsewhere, he turned his full force on Poland. The bloody fight was on. And as the spectacle of two rival seaports receded, the struggle for possession of the vast hinterland moved into the foreground of events.

A THOUSAND YEARS OF HISTORY¹

(997-1918)

When in 997 St. Adalbert, bishop of Prague, traveled to Samland, east of Pomerelia, to convert the heathen Prussians, he boarded his ship at Danzig. He was accompanied to the port by soldiers of the Polish Duke Boleslas the Brave (992-1025), who controlled this coastal territory as far as the present city of Stettin. In St. Adalbert's biography, by the Roman abbot Canaparius, we find the first mention in history of Danzig, as Gyddanyzc. The meaning of the name remains unknown,² and whether it is of Germanic or Slavic origin is still a topic of controversy, although claimants for the Slavic origin seem to have made a better case.³

Gyddanyzc was then probably a modest settlement of Kashubian fishermen⁴ who also did some occasional trading with their neighbors. Commercial relations gradually expanded, until during the eleventh century, judging from the hundreds of coins excavated in the region, they reached from Danzig to Germany, England, Bohemia, and Hungary. In the more immediate neighborhood, trade found its way to Pomerelia and Prussia, and on the inland route to Thorn and Posen. As civilization advanced, St. Catherine's, the first Christian church in the Vistula district, was founded. Built about 1150, St. Catherine's still stands in impressive beauty, located on the ancient, tree-bordered moat in the heart of the city.

¹ Except as otherwise indicated, this historical account follows Erich Keyser, *Danzigs Geschichte* (Danzig, 2d rev. ed., 1929). An evaluation of books on Danzig history is found in Catherine Snell Crary, "The Free City of Danzig. Its Economic and Political Development since the Peace Treaty," unpublished doctoral dissertation. Radcliffe College, 1934, Appendix.

² Casimir Smogorzewski, *Poland, Germany and the Corridor* (London, 1931), p. 2n. He claims that the Polish name for Danzig, Gdańsk, originates from two ancient Slavic words meaning "settlement by the side of the water," but gives no authority for his statement.

³ See Crary, *op. cit.*, pp. 6-8. Keyser puts in a word for the claim that it is German "in all probability," *Danzigs Geschichte* (pp. 16-17), but is not as definite in his expressed conviction in the second edition of his book (1929) as he was in the first (1921, p. 12).

⁴ See also J. Kauffmann, *Das Verhältnis der Deutschen, Polen und Kaschuben in Westpreussen und Danzig* (Danzig, 1919).

DANZIG AND POMERELIA, 1123-1308

While Pomerelia was included in the Polish diocese of Włocławek in 1123,⁵ it was not politically subject to Poland. The local duke, Swantopolk (1222-1266), for example, defended his rule victoriously against the Polish dukes who attempted to subject him, while Pope Gregory IX recognized his independence and threatened the Polish princes with heavy ecclesiastical penalties in case they continued to wage war on him.

Despite the fact that the native rulers of Pomerelia were Slavs, they appreciated the more advanced Teutonic civilization and endeavored to attract German immigrants by founding convents and monasteries (for example, in 1170 and 1209), endowing them with large tracts of lands, and filling them with German nuns and monks. Duke Swantopolk granted his protection to the Lubeck merchants who brought salt and cloth to Danzig, lowered the customs duties in their favor, and expressly prohibited the exercise of the right of salvage against them. In 1235 he gave Danzig the constitution of a German city, granting it the German law code of Lubeck.⁶

The development of commerce and settlement went hand in hand, resulting in the German colonization of wide stretches of Eastern Europe. The German merchant imported food and raw materials from these sparsely populated districts; the German agriculturist, whether peasant or big landowner, sought land to insure the economic future for himself and his children, and the monks went forth to make converts both for Christianity and for Teutonic civilization. The monasteries promoted the settlement of peasants, and the merchants established market-places, cities, and churches.

Danzig merchants and artisans profited considerably from German immigration into Pomerelia and Prussia. It was also to local advantage that German businessmen, traveling to the new cities of Riga and Reval farther east on the Baltic coast, found it convenient to establish themselves at Danzig as well.⁷

⁵ The Polish Professor Simon Askenazy, *Danzig and Poland* (London, 1921), p. 7, speaks only of "the spiritual guardianship of a Polish bishop," giving the date as 1148.

⁶ According to J. Kauffmann, *Danzigs Deutschtum, staatliche Selbständigkeit und Geltung in der Vergangenheit. Urkunden in Lichtbildern aus dem Danziger Staatsarchiv* (Danzig, no date), p. 3, the law of Lubeck was thoroughly German. Askenazy, *Danzig and Poland* (London, 1921), p. 7, states: "Under the rule of the Slav princes of Pomerania, Danzig grew and was transformed step by step—thanks partly to the introduction of industrious German colonists during the thirteenth century." In 1295 the law of Magdeburg was substituted for that of Lubeck.

⁷ See Erich Keyser, *Danzig* (Berlin, 1928), for a fine collection of photographs of the city.

Imports came to Danzig by sea or through Pomerelia; exports were shipped upstream on the Vistula River or on the old commercial highway into the interior of Pomerelia. The economic development of Danzig, although continuous, made slow progress. It was handicapped by Swantopolk's fights with his brothers and the Teutonic Order, which kept the region, city, and countryside in a state of continuous excitement.

After Swantopolk's death (1266), his sons fought each other bitterly. One son, Wartislaw, Duke of Danzig, enjoyed the support of the Teutonic Order. His brother Mestwin offered Danzig to the Margraves of Brandenburg if they would save him in the emergency. The Brandenburgers, welcoming the opportunity to extend their rule to the mouth of the Vistula, occupied Danzig in 1271. When Mestwin regretted his bargain, he obtained the help of Duke Boleslas of Great Poland, reconquered Danzig, and punished severely the burghers and noblemen who had done homage to the Margrave. Upon his death in 1294 the first personal union took place between Pomerelia and Poland under Mestwin's successor—Przemyslas, Duke of Pomerelia and King of Poland.

During the struggle for succession which followed Przemyslas' assassination two years later, the several contestants for the rule of Pomerelia called in their neighbors for assistance. Danzig was occupied in turn by the Teutonic Knights (1301), the Brandenburgers (1308), and again the Knights (1308); the rule of the Order over Danzig lasted from 1308 until 1454.

THE EMERGENCE OF THE POLISH STATE

The Polish state emerged on the European scene in the middle of the tenth century after many long wars with Czechs, Russians, and Germans, during which it had extended its frontiers to include what is now known as Eastern Galicia and Silesia. It had gained a strong foothold on the Baltic shore in the north and had added the Slovak country beyond the Carpathian Mountains in the south.⁸ In the days of Boleslas the Brave (992–1025) and again, after heavy reverses, under King Boleslas III, the Wry-Mouthed (1102–1138), Polish armies controlled the Baltic coast as far as the present city of Stettin.

[Across the] plains and up and down the rivers, the frontiers of Poland moved back and forth for eight hundred years, according to the fortunes of war and the marriage of princes. The Czechs and the Magyars from the south, the Tartars from the east, and the Swedes and lesser tribes

⁸ Roman Dybowski, *Outlines of Polish History* (London, 1925), p. 17. Hereafter cited as *Polish History*.

from the north provided from time to time the forces by which, or against which men moved these boundaries. But from the very beginning of recorded history of these regions to our own day two other peoples with brief intermissions, have been pressing forward or were being pressed back in conflict with the Poles; the Germans from the west, the Russians from the east.⁹

The early Polish conquests were not lasting, for with the death of Boleslas III another period of Polish decline followed—a longer and darker eclipse than before. For two centuries and more (the largest part of the twelfth, the entire thirteenth, and the first third of the fourteenth) Poland existed only as a group of warring principalities.¹⁰

In addition, the Tartar invasions, the first of which in 1241 devastated the whole of Poland, scourged the country periodically for almost five hundred years. No wonder that a Poland torn internally and threatened externally by Tartars was unable to prevent the German *Drang nach Osten*, which had been definitely under way since the eleventh century and was now led by the Teutonic Knights.

DANZIG AND THE TEUTONIC ORDER, 1308-1454

The religious Order of the Teutonic Knights consisted of German knights who had dedicated their lives to the fight against the infidel. Formed in the beginning of the thirteenth century in connection with the Crusades, it was ready early in the fourteenth century to shift operations entirely from the Mediterranean to the Baltic and the Vistula. It had been "an ill-starred moment for Poland," to quote the Polish professor, Roman Dyboski,

when they were summoned as allies against the heathen Prussians by one of the Polish territorial princes, Conrad of Masovia, in 1226, and encouraged by a grant of land. They exterminated the Prussian nation root and branch, and its name was appropriated afterwards by its German successors. But the rescuers soon became a thorn in the side of the rescued; combats against the German Knights henceforward are an even more constant feature of medieval Polish history than the periodical fights against the Tartars. By uniting with her northeastern neighbor, Lithuania, against the common foe, Poland finally beat down the German Knights and succeeded in securing access to the Baltic for good; but it took more than two centuries of wars to achieve that end, and in vanishing from history at last, the German Knights left behind them as

⁹ H. H. Fisher, *America and the New Poland* (New York, 1928), pp. 4-5.

¹⁰ Dyboski, *Polish History*, p. 20; Robert H. Lord, "The Resurrection of Poland," in Temperley, *Peace Conference of Paris*, VI, 221.

their successor in early modern Europe the secular duchy of Prussia, which from a vassal of Poland, developed into one of its powerful destroyers.¹¹

It must be added, of course, that in addition to its destructive features, the Order also had to its credit great civilizing accomplishments in this wilderness area, consisting of marked advances in communications and agriculture, through the building of roads and canals, the draining of land, and many other improvements.¹²

As a part of the domains of the Teutonic Knights, Danzig possessed several advantages. The arms of the Order protected the city against the foreign aggressions, which had been so prevalent in preceding decades, thus allowing commerce to develop undisturbed. While the diplomatic connections of the Grand Master gained protection and recognition for her citizens when traveling or residing in foreign countries, the Order did not interfere unnecessarily in municipal affairs, but confined itself to the exercise of its sovereign rights.

Numerous immigrants from western and central Germany continued to arrive and settle in the city, which around 1300 had a population of between 1,500 and 2,000. The Danzig historian, Erich Keyser, who is also a student of population, estimates that in the decades toward the end of the fourteenth century 30 to 45 per cent of the inhabitants in the city proper were between the ages of 20 and 40 years—an age proportion, he points out, similar to that of the United States at the turn of the nineteenth century. In both cases—the colonization of German eastern Europe and the building up of the United States—the large number of persons in the prime of manhood resulted from the immigration of young and enterprising persons. To their energy was due the first period of Danzig's boom and prosperity.¹³ By 1416 Danzig had a population of 20,000, one about equal to that of Hamburg, Lübeck, or Nuremberg.¹⁴

Danzig's commerce flourished and greatly expanded in the fourteenth century, while under the military protection of the Knights trade relations grew up with the Prussians on the eastern side of the Vistula. As a result of increased wealth, architecture flourished. In

¹¹ Dyboski, *Polish History*, pp 21–22

¹² Morrow, *Peace Settlement*, p 4.

¹³ After 1350, immigration became so heavy that in some years as many as 300 persons acquired Danzig citizenship; the annual average for 1364–1399 was 175. A number of these immigrants were Scotchmen, according to Erich Keyser, *Bevolkerungsgeschichte Deutschlands* (Leipzig, 1938), p. 266. Danzig's suburb of Altschottland has enjoyed this name since the fifteenth century.

¹⁴ *Ibid.*, p. 203.

1359 St. Mary's Church was enlarged, the city hall was finished in 1382, and Arthur's Court, the merchants' splendid meeting place, was remodeled. These richly decorated Gothic buildings are still landmarks in Danzig.

At first a majority of the inhabitants made a living as artisans; only later did commerce take first place in the city's business life. Although the butchers, bakers, and smiths belonged to the oldest guilds, in numbers they were surpassed by the brewers, who counted not fewer than 378 members in 1416. The business in the meat markets next to St. Mary's became so brisk that it was necessary to prohibit the carrying of pigs, baskets of meat, and halves of beef and hogs through the church.

DANZIG AS A HANSEATIC TOWN

But Danzig's ambitions went much farther. Her increasing population and expanding industry gave the merchants an early opportunity to take part in the activities of the Hanseatic League and to send their own fleets of ships to the busiest ports of the Baltic and North seas. During the century and a half of Danzig's existence under the Teutonic Order she formed increasingly closer relations with the League, seeking its support in order to strengthen her position in relation to the Knights, and also against Poland, as the probable successor of the Order.¹⁵ Although Danzig had participated in the affairs of the League as early as 1295, realizing that economic advantages could be gained in foreign countries only in co-operation with other German cities having similar aims, she first sent one of her city councillors to the Hanse meeting in Greifswald in 1361; after 1377 she was represented at all the League meetings.

The Hanseatic League played a dominant role in northern European trade in those days. The ships of its member cities plied from the Gulf of Finland to the Bay of Biscay, exchanging fur, hemp, and honey from the northern countries for the fruits of the south and carrying cloth from England and Flanders as well as herring from Sweden and grain from Prussia. The member cities of the League were united in common aims, leading even to joint military action. For instance, they conquered Copenhagen, forcing the king of Denmark in 1370 to grant them special concessions at Falsterbo on the Schonen. Here the herring caught by the Danish fishermen

¹⁵ Morrow, *Peace Settlement*, pp. 22-23. See W. R. Shepherd, *Historical Atlas* (2d rev. ed., New York, 1921), p. 98, "Medieval Commerce," showing sea routes of the Hanseatic League and territory of the Teutonic Order.

were salted and packed in barrels to serve as Lenten food in the interior of Germany, and among the numerous ships from many ports and the thousands of people assembled each fall quantities of other goods as well were marketed.¹⁶

Toward the turn of the fourteenth century a significant change took place in Hanseatic trade that greatly affected Danzig. A number of states began to curtail the special trading privileges of the German merchants in their ports and to stress the development of their own economic life. Dutch and English traders wanted to deal with the hinterland themselves, instead of being limited to the Hanseatic towns as intermediaries. Danzig suffered further losses when in 1429 tolls were levied on ships passing through the Sound on their way to the North Sea.

Since at the same time the herring business on the Schonen decreased, she had need to look around for new commercial opportunities. Although her trade with Russia always remained small, her business relations with Lithuania became increasingly valuable.¹⁷ Danzig merchants located in Kovno exported wax, leather, and hemp to western Europe via Danzig, and imported salt. Commerce with Poland also increased considerably, exports from that country consisting primarily of wood, ashes, pitch, and tar. From Posen, Polish cloth was shipped via Danzig to Novgorod; goods were exchanged with Hungary and the Near East via Lemberg and Cracow; yew wood was sent from the Carpathian Mountains to England to be made into crossbows; and for a long time timber took first place in imports from Poland. As in more recent times, merchants located in the city at the mouth of the river advanced money to the Polish raftsmen for the purchase of the logs up the Vistula.

Peaceful relations between Poland and the Teutonic Order became of more and more importance to merchants of Danzig as trade changed its primary direction from the old western-to-eastern-Europe route toward the establishment of close economic ties between the north and the south.

In the course of time friction arose between the Teutonic Knights and the Danzig burghers over the increasingly lucrative economic activities of the Order—often a source of keen competition for the Danzig merchants. Moreover, difficulties concerning the centralizing

¹⁶ Hans Becker, "Danzigs Handelsbeziehungen zu Danemark" in Hanns Bauer and Walter Millack (eds.), *Danzigs Handel in Vergangenheit und Gegenwart* (Danzig, 1925), pp. 42-44. Hereafter cited as *Danzigs Handel*.

¹⁷ Walther Recke, "Danzigs Handelsbeziehungen zu Osteuropa," in Bauer and Millack, *Danzigs Handel*, pp. 16, 21-22.

policy pursued by the Grand Master threatened to curtail the liberties of the towns under his rule.

Unfortunately for the Teutonic Order, it was at this time waging a losing war against Poland. After the disastrous defeat of the Knights at Tannenberg in 1410, Konrad Letzkau, the burgomaster of Danzig, went to the field camp of the Polish king, Jagiello, to do him homage. The king, who already considered himself the successor of the Teutonic Order, granted Danzig important privileges but soon had to flee. Although now Danzig had again to subject herself to the Order, the city was not punished for her desertion to the enemy, in fact, the same burgomaster was entrusted with political missions by the Grand Master. However, Danzig refused either to furnish soldiers for the war with Poland or to accept a property tax designed to help the Order pay its Polish obligations resulting from the Peace of Thorn in 1411.

At length open hostilities broke out between the Knights, who blocked trade on land and water in order to force the city into subjection, and the citizens, who now began to strengthen their fortifications. While new negotiations were taking place, suddenly the burgomasters, Konrad Letzkau and Arnold Hecht, and a city councillor were taken prisoners while conferring in the castle of the Order and were killed. Eight days later their bodies were given over to the enraged citizens. Although the resistance of the city was now broken and a heavy fine was levied upon it, this horrible deed deepened the rift between Danzig and the Order more than any previous or subsequent occurrence.

During the succeeding years the relations between the Order and Danzig improved somewhat; but elsewhere discontent grew. Factions even appeared among the Knights, who were at times guilty of insubordination toward their superiors. Individual officials misused their power, since the government of the Order was weak. Although reluctant to break with the Knights, Danzig at last took the decisive step by joining the other cities that had offered their submission to the king of Poland in exchange for support against the Order. On March 6, 1452, Danzig and Poland were joined in a personal union; and on July 16, 1454, Danzig paid homage to the Polish king in return for the grant of important privileges.

By this action the patricians showed that they were not conscious of—or at least set no high value on—ties of race with the Teutonic Knights. They thought only of the menace to Danzig's commercial power and of their desire to see Danzig as strong and independent as possible in the impending changes in the balance of power in

eastern Europe. As Morrow remarks, through these struggles for independence, the

Danzigers still further strengthened their proud civic patriotism that runs like a scarlet thread through the history of their subsequent relations with the Polish kings. In these years they learnt to think and feel and to act as Danzigers, and to place the interests of Danzig before those of the States to which they were bound either by allegiance or by racial ties.¹⁸

After the Knights had voluntarily vacated the Burg, the Danzigers tore it down to prevent the Polish king from possessing a fortified place near the city.¹⁹ Since the burghers and the city council were one in the endeavor to gain under the new state as much economic and political independence as possible, Danzig entered the thirteen-years war of Poland against the Order, making enormous sacrifices, maintaining large forces of mercenaries, and taking part in several sieges, until the second Peace of Thorn in 1466 confirmed the separation of West Prussian cities from the Teutonic Order and gave the sovereignty over the land of the Vistula to the king of Poland.

DANZIG AND POLAND (1454-1793)

Danzig's secession from the state of the Teutonic Knights contributed greatly to the immense growth of the city, now free from a restraint which had become more and more oppressive. When Danzig acknowledged Casimir of Poland as sovereign,²⁰ she did so upon her own conditions and for the sake of gains which had caused her to forsake the Order. The city now had such power that she was the subject of the Polish king more often in name than in fact. Casimir early confirmed the rights of Danzig to make her own laws and to enjoy absolute freedom of internal administration; indeed, decrees of the Polish king and diet needed the consent of the Danzig council and of a committee of burghers in order to attain the force of local law. Since she enjoyed the privilege of levying taxes and customs duties in her territory and of coining her own money, the city's influence grew with her wealth. The harbor and shipping were also under the city's control. The right to stop imports and exports

¹⁸ Morrow, *Peace Settlement*, p. 22. See Shepherd, *Historical Atlas*, p. 88, "Decline of German Power 1380-1560," showing losses of Teutonic Order domains to Poland.

¹⁹ This event has lent itself to widely divergent interpretations by German and Polish historians, described in Morrow, *Peace Settlement*, p. 23 n.

²⁰ E. Witte, *Die Rechtsstellung Polens in Danzig zur Zeit Kasimirs IV und Heute*, published doctoral dissertation, University of Königsberg, 1933

as she saw fit gave the whole trade of the Vistula into her hands, while the privilege of maintaining her own troops and erecting fortifications added greatly to her power.

Danzig was able to remain a member of the Hanseatic League, to conclude offensive and defensive alliances with foreign nations, to maintain her own diplomatic representatives abroad, and to receive the envoys of other powers.²¹ A highly favorable financial position enabled her to use the powerful language of "large loans" when negotiating for advantages with a king who had desperate needs and decreasing opportunities to provide for them out of his own means. While other Hanseatic towns lost more and more of their power to neighboring princes, Danzig gained a position that gave her the might, although not always the legal right, to pursue her political and economic policies even against the will of the sovereign.

The rights which the Polish king possessed in Danzig were few in number and slight in importance.²² As a sign of his sovereignty he was allowed to appoint from among the councillors a Burgrave who was his deputy, entitled to confirm sentences of death imposed by the Danzig court. The city was also obliged to pay the king an annual rent of 2,000 Hungarian guilders and to provide shelter for him and his suite during three days each year. Although the Polish kings attempted to secure control over the harbor and its customs revenues, as the Knights had tried to do, they did not succeed. The burghers were united in opposition to such a decisive step, and Poland became increasingly dependent upon the support of Danzig. During the almost 350 years of Danzig-Polish union, Poland enjoyed the desired access to the sea, subject, however, to considerable restriction imposed by the coastal city in her own favor.

The burghers were skillful in the exploitation of Danzig's favorable geographic and economic position. While the political connection with Poland was important for the city in the sense that it had exchanged the increasingly strict rule of the Teutonic Order for the loose sovereignty of the Polish kings, it was not the favor of the Polish kings that made Danzig great. She held her own without the Polish state, often enough in opposition to it. The goal of Danzig politics was always to control the Polish trade but to be ruled as little as possible by the Polish kings.

²¹ Geneviève Levèsque, *La situation internationale de Dantzig* (Paris, 1924), p. 16. For examples of Danzig's diplomatic correspondence, see Kauffmann, *Danzigs Deutschum*, pp. 16, 21-22.

²² Camille Piccioni, "Le Statut International de Dantzig," in *Revue Générale de Droit International Public*, XXVIII (1921), 84.

At the same time Danzig consistently refused to renew relations with the Teutonic Order. A revolt against the city council failed immediately when it became known that its leader intended to hand the city over to the Knights. When they attempted to reconquer their lost territories, Danzig soldiers and ships joined the Polish army on at least two occasions to repulse the attack by the Knights.

Danzig now developed into one of the largest commercial cities of Europe, with trade relations extending to other Baltic ports, and to Holland, France, England, and Scotland. The prosperity resulting from these extensive trade relations enabled the burghers to finish the tremendous buildings, most of which were begun under the rule of the Knights, with larger means and a more mature taste. The Town Hall tower was considerably increased in height; Arthur's Court, rebuilt after a fire, became the favorite place for festivities and has remained so down to the present time; St. Mary's, finished at last, was richly decorated by artists from the Rhine and the Danube, who evolved a characteristic Danzig style.

THE RISE OF THE REFORMATION

In the early sixteenth century, the Protestant Reformation found its way to Danzig, in spite of opposition by the king and the church of Poland. As in other German cities, the local religious changes were closely associated with political and social movements arising from dissatisfaction with existing conditions. Reaction against the excesses of the mob set in, however, strengthened by the serious efforts of King Sigismund to restore the old church order against the increasing influence of the Lutherans. When Sigismund occupied the city in 1526 with an army estimated at 8,000 men, he found the population of the city divided. The patricians hoped to regain through the king some of their political power, recently lost through democratic innovations in the city government. Because of the discord among the citizens the king was enabled to sentence the leaders of the new Protestant movement to death or exile. In the "Statuta Sigismundi" he reorganized the political and ecclesiastical government of the city; the teaching of the new creed was now forbidden by threat of capital punishment, but its followers were allowed to leave the town.

WAR WITH POLAND

In 1572 the election of strong Stephen Bathory, prince of Transylvania, as king of Poland, threatened to aggravate recent conflicts between Danzig and Poland over measures that would have endan-

gered the city's control of the port and of shipping and decreased her political and military freedom of action. Although the envoys of Danzig had pointed out the established rights of the city, even begging the monarch on their knees for mercy and justice, the new measures had been put into law (1570). The citizens demanded that the new king confirm the old privileges of the city before they did homage to him. Stephen Bathory refused, advancing in 1576 toward the city with an army of some 17,000 men, while the Danzigers burned down their suburbs to deny them to the approaching enemy. In spite of the heavy defeat suffered by the Danzig troops, a strong bombardment of the city by the Poles was unsuccessful. After some six months of formal war, the siege of Danzig was lifted. Upon payment of 200,000 guilders, all of her established privileges were confirmed and the exercise of the Lutheran creed was again guaranteed. Danzig had shown that if pressed too hard she was willing to engage the Polish king as an opponent. With her own strength she had preserved her freedom.

POWER AND PROSPERITY

During the sixteenth century the enormous growth and crowding of population in western Europe, with the consequent need for imports of foodstuffs from the less densely populated eastern surplus regions, proved advantageous to Danzig. She was greatly helped by being a part of the large economic region of the Polish-Lithuanian union reaching from the Baltic to the Black Sea.

As the conquest of Constantinople by the Turks in 1453 and the subsequent closing of the Bosphorus to trade stopped the shipments of South Russian and Ukrainian grain via that route, it was Danzig's good fortune to be situated at the mouth of the Vistula River. The exports from the Russian-Polish grain belt now went by this river route to the Baltic.

In addition, the growth of the Polish state's power resulted in domestic peace and economic prosperity in the country, so often torn by violent discord, thus increasing its desire for greater exchange of goods with the west. Since Danzig had centuries-old, Hanseatic relations on the shores of the Baltic and North seas, great commercial wealth flowed to the city. Goods came from Poland on Vistula rafts and large barges. As formerly, they consisted of grain, timber, flax, pitch, and tar, now in increasing amounts. The population of Danzig grew rapidly until in 1577 it was about 40,000 and in 1600 about 50,000. Traders' profits came more and more from their efforts as middlemen, from storing goods arriving from the

interior, and from selling them to the Dutch, often at a considerable increase in prices.

The city's connection with the Hanseatic League²³ continued until she became the leader of all the Prussian and Livonian (Latvian) member cities. Trade also increased with Lithuania (bound to Poland by personal union), Finland, Sweden, and later Antwerp, which imported enormous amounts, most of them to be sent farther west and south. Salt was imported directly from France, and later from Spain and Portugal, two states willing to accept timber and grain from Danzig. In addition, Europe's southern fruits, spices, oils, rice, and wine also found their way to Danzig.

When in the second half of the sixteenth century the religious and political disputes in Flanders and Holland paralyzed the local economy, the Italian cities of Florence, Genoa, and the Papal States managed to get their grain directly from Danzig. Trade with Venice was especially lively.

Thus Danzig extended her prosperous trade relations over an area reaching from the Gulf of Finland to Portugal and the Adriatic Sea, even to the Levant. Her rich patricians built magnificent homes, full of splendor and comforts. Architects and artists from Holland and Italy found a liberal reception, while the arts and sciences were cultivated in her institutions of learning.

TWO CENTURIES OF WAR AND SUFFERING

Even though at the close of the sixteenth century Danzig was at the peak of her power and prosperity, signs of change were appearing on the horizon. Peace lasted only a few more decades. For the next two hundred years eastern Europe was torn almost without interruption by wars between Poland and Sweden, Russia and Prussia, over the predominance of power in the Baltic Sea and the political hegemony in the lands along the Vistula. Danzig now suffered for the very reason that her geographical situation was so favorable and important in world commerce; she was too strong to be overlooked by the warring powers, and too weak to defend herself by her own efforts. In addition, political and religious unrest disunited the Danzig population. Not only did Catholics and Protestants fight one another, but Lutherans and Reformed, Calvinists and Menonites engaged in quarrels.

At first, Danzig was able to keep aloof from Poland's conflict

²³ Erich Keyser, "Danzigs Handel und die deutsche Hanse," in Bauer and Millack, *Danzigs Handel*, pp. 5-15.

with Sweden, although she suffered from its effects. But Gustavus Adolphus carried the war to East Prussia and in 1626 to Danzig, in order to keep Poland away from the Baltic Sea and thus paralyze her economic life and political and military power.

The immense debts Danzig contracted in order to pay the costs of war became more and more oppressive because at the same time important changes took place in European economic life. As a result of its continuous wars and internal revolts, Poland became a poor country where agricultural pursuits were impossible and traffic was dangerous. Poland's immense forests had been ruthlessly exploited, her rich timber greedily cut down. Since during the Swedish wars the western European states had been cut off from Polish and Russian grain, they had increased their own agricultural production. Danzig naturally suffered from the greatly diminished exports of Polish wood and grain. Impoverished Poland, at the same time, was unable to import via Danzig as many goods as formerly. Poland further raised her customs duties, even on mere transit goods, in order to increase her revenues. When Holstein, Mecklenburg, and Denmark erected their own flour mills and Sweden began to smelt her own iron ore, Danzig industries suffered.

When the Swedes were defeated at Poltawa in the Ukraine in 1709, the Russian troops advanced toward the Baltic in order to attack the Swedes in western Pomerania. They occupied the territory near Danzig for a number of years, and were slow to leave even after Danzig had given Peter the Great a gift of 140,000 taler. To add to the plight of the people, the plague invaded Danzig in 1709, killing 25,000 of her inhabitants.

In the struggle for the Polish succession between Stanislas Leszczynski (father-in-law of Louis XV of France) and August the Strong, the Elector of Saxony, Danzig took the wrong side. She supported Leszczynski (1733) in the expectation that he would become a weak king whose rule would affect Danzig more lightly than that of his opponent. The city had to submit to a siege, suffer the destruction of 1,800 houses by bombardment, and carry the cost of warfare amounting to millions of guilders.

DECLINE

When Danzig first acknowledged the sovereignty of the Polish king, the action had seemed favorable for the city because Poland was a weak state likely to leave her much freedom. Now that Danzig was in great need, and the rise of the modern states had put an end to the era even in eastern Europe when city-states could pursue their

own international policies, it was to her great disadvantage that she could not expect support from a weak Poland.

The long wars and the fact that the Poles mined more and more salt than formerly and needed less from abroad naturally had a very unfavorable influence on Danzig commerce. The ports of Stettin and Königsberg became stronger competitors. Of still greater consequence was the progress of English trade in the Baltic; it almost monopolized commerce with the newly opened Russian ports, while Dutch shipping, upon which Danzig's connection with western Europe primarily depended, decreased more and more. Danzig's revenues decreased immensely, while the city's expenses for the king of Poland and for her foreign relations doubled. In the hundred years between 1650 and 1750 the population decreased from 77,000 to a mere 46,000.

A demand by numerous merchants and artisans for more democratic government in Danzig resulted in royal decrees depriving the privileged patricians of a part of their political and administrative influence, but the grants were dearly paid for. From now on Danzig needed the consent of the monarch when she wished to increase her troops and open or close the harbor for shipping. Danzig's military autonomy and economic independence were thus decreased.

In the meantime Poland's rapid decline was hastened by increasing intrigues of foreign powers, while her neighbors—Russia under Catherine the Great, and Prussia under Frederick the Great—rose in power and prestige. Finally, in 1772, the first partition of Poland took place.²⁴ Danzig did not yet become a part of Prussia, because of opposition by Catherine, who refused to accept Frederick's suggestion that both Danzig and Thorn should become free and independent cities. Instead, Danzig was cut off from her Polish economic hinterland and surrounded by Prussian territory, with its high protective-tariff wall, with the result that she declined steadily.

While Danzig suffered under Prussia's strict measures against her commerce and trade, the economic conditions of neighboring cities under Prussian rule improved. Although Frederick anticipated that sooner or later the Danzigers would no longer be able to oppose their inclusion in Prussia, the people still indignantly declined all suggestions that they subject themselves voluntarily to the king of Prussia. The patricians, who were afraid of losing their freedom under Prussian rule, were too engrossed in traditional ideas to under-

²⁴ W. F. Reddaway, "The First Partition," in W. F. Reddaway and others (eds.), *The Cambridge History of Poland, 1697-1935* (Cambridge, Mass., 1941), pp. 88-111.

stand the signs of the times. Because of the Russian opposition, Prussia did not push the matter.

A PART OF PRUSSIA, 1793-1807

At last, on the occasion of the second partition of Poland in 1793, Danzig was taken over by Prussia. There were still many Danzigers who objected, especially the lower classes, who had been influenced by the slogans of the French Revolution and feared that the Prussian monarch would limit their personal freedom. The merchants, on the other hand, had been proposing the *Anschluss* for years as the only possible road to economic salvation for Danzig. The city was now occupied by Prussian troops, and did solemn homage to the king of Prussia. After 339 years, Danzig again had a Teutonic sovereign.

In examining the various causes of Danzig's downfall Morrow finds that war was the principal one, together with the internal collapse of the Polish Republic and the earlier dissolution of the Hanseatic League. He concludes that:

The psychological effect of this slow process of decay upon the Danzig patricians was marked in the extreme. It serves to explain much that is not at first sight explicable in the subsequent history of this city, that was once the greatest seaport in northern Europe. With their high estate the Danzigers lost the self-assurance that had formerly characterized their undertakings. "The citizen [of Danzig] sighed and bemoaned the changing times. But he lacked the courage and energy necessary for fresh achievement and could not bring himself to assimilate the spirit of the new age by turning his back resolutely upon outworn customs and opinions." Hence it came about that Danzig fell spiritless and defenceless beneath the sway of the Prussian sceptre.²⁵

Owing to the political pacification and the economic furtherance which the Prussian state devoted to the recently acquired parts of former Poland, Danzig's trade in grain and timber increased rapidly after the annexation, and industry again flourished.

Under such circumstances, the population acquiesced in the new political orientation more quickly than had been anticipated. Protected against external enemies, the Danzigers were able to devote themselves to their industrial and commercial enterprises and enjoyed a happy though brief period of prosperity.

After Prussia's decisive defeat by Napoleon in 1806, Danzig was besieged for ten weeks and was finally occupied by the French.

²⁵ Morrow, *Peace Settlement*, p. 30, his quotation is from Keyser, *Danzigs Geschichte*, p. 177.

A FREE STATE, 1807-1814

By the Peace of Tilsit in 1807 Danzig, with a population of 80,000 people, was made a Free State under the protection of the kings of Prussia and Saxony. It was Napoleon's intention to weaken the Prussian state by the loss of this commercial center and to make it an important base for his own military operations. The old Danzig constitution was now restored but was later changed so as to safeguard the French influence. The financial demands upon the city were immense, the expenses for the forces of occupation alone being 30,000 taler a month.

Because of Napoleon's Continental Blockade, only eleven ships came to Danzig in 1807, fifty-six in 1808, and seventy-three in 1809. Exports were burdened by high fees. Only after 1810 did shipping again increase.

When Napoleon prepared for the invasion of Russia, Danzig became one of the important centers where he gathered his armies. The city had to support over 11,000 men at its own expense for several months. This heavy burden was met in part by melting the gold and silver possessions of the churches and by cuts in salaries for ministers and teachers. In fact, Danzig's existence as a "Free State" under Napoleon's rule was marked by hard times and much suffering.

After Napoleon's defeat the Russians laid siege to Danzig, causing great want among the population. As the result of famine many civilians starved to death; others ate dogs and cats, spicing the meat with the salt found in old herring barrels; drinking water was scarce; and fever and typhus spread rapidly. By the end of the year 1812 the city had only 16,000 inhabitants.

Although for a while it looked as if the Russians would try to keep Danzig in their possession, or at least continue it as a free state open permanently to Russian influence, Danzig was at length again taken over by the Prussian authorities. But her commerce was destroyed, her storehouses had been burned, and her exchequer was empty.

BACK TO PRUSSIA, 1814-1920

The annexation of Danzig by Prussia in 1793 and again in 1814 meant, of course, the loss of the political independence she had enjoyed for centuries. However, significant developments in the trends of international trade during the nineteenth century affected Danzig more than the loss of territorial sovereignty, resulting in the decline

of her outstanding importance as a port and center of international commerce.

The city's economic ties with western Europe greatly decreased in value as the result of several changes in trade over which Danzig could not exercise control. After the Continental Blockade Danzig's commerce decreased considerably, and in 1821 some of her best-known firms went bankrupt. England received timber from Canada and the Scandinavian countries instead of from Poland. Great Britain, Spain, and Portugal imposed a protective tariff on Polish grain, while American farm exports greatly increased in competitive importance. Russian grain was again shipped through the Bosphorus to the Mediterranean. Russia also imposed high duties on exports via the Prussian border, endeavoring to direct the Polish surplus to her own ports of Riga and Libau. A temporary change for the better set in around the middle of the century. England went over to the free-trade system in 1846; the duties imposed upon goods passing through the Danish Sound were abolished in 1857, and favorable commercial treaties with Russia increased imports into Poland, Danzig's natural *Hinterland*.

The great increase in Danzig's trade toward the end of the century was due largely to the growing prosperity of an increasing population in the Prussian provinces of West Prussia and Posen. It now became necessary to enlarge the harbor to handle the imports and exports of staples, including Russian raw sugar and salt, American petroleum, English anthracite, and Scotch herring. The new Kaiserhafen was built in 1903. The number of ships sailing from Danzig fluctuated. About the middle of the century it went up once more, reaching a total of 3,200 in 1862. Later their number decreased again with the advent of the steamboat, which pushed the sailing vessels off the sea, limiting them to coastwise shipping. By 1910, steamships to the number of 2,230 entered Danzig, as against only 315 sailing vessels.

A number of factories were built in the second part of the nineteenth century. They included several chemical and furniture factories, breweries, a glass mill, a freight-car-manufacturing concern, and the spacious railroad repair shops, as well as artistic silver and gold smithies and an amber-cutting shop. In 1853 a rifle factory was taken over by the state, which also owned the artillery works. However, the city did not become an outstanding industrial center.

The chief factors against Danzig's international commercial importance were the basic transportation trends of the nineteenth century. By the 1830's the Baltic Sea had lost her old-time commercial

predominance. The trade of northern and central Europe, including Germany, no longer went across the waters of the Baltic. It turned largely to the North Sea and the Atlantic Ocean. The Baltic Sea was now on one of the sidelines of world trade, rather than in the center as formerly. And with the shift in commerce Danzig was also almost secluded geographically, in spite of the digging of the Kiel Canal. In addition, her generally shallow coast was not inviting to ocean giants. With the exception of Stettin, the Baltic ports declined. Both Danzig and Lübeck, once the most important ports of northern Europe, now lost their leading positions to Hamburg and Bremen.

The introduction of railways was of great importance to Danzig, as it made freight traffic independent of natural waterways, such as rivers. But the actual construction of the railway net by the Prussian authorities tended to neglect Danzig in favor of her rivals, Hamburg, Stettin, and Königsberg. Stettin was given rail communication with Poland earlier than Danzig, to the considerable advantage of Stettin. Since freight took much less time by train, Stettin soon controlled the market of western Poland, and Hamburg controlled that of Upper Silesia and southern Poland. Danzig's direct connection with Berlin via Köslin was not finished until 1870, whereas Hamburg's direct line was built in 1846.

Faced with these unfavorable trends and factors, Danzig capitalized her military and administrative importance. After 1891 the city was the seat of the Seventeenth Army Command (once under Field Marshal von Mackensen of World War I fame), the staffs of two infantry divisions, the famous Death Head Hussars brigade and a field artillery brigade, and after 1894 a military staff school. It was also the garrison for a number of regiments of infantry, artillery, engineers, and hussars. The Totenkopfhusaren reportedly were the favorite regiment of the German Crown Prince, their honorary commander.

Because of its favorable location on the protected Bay, the city was chosen as the site of the first Prussian navy yard, which in 1871 became an Imperial navy yard. It built warships and in later years especially submarines. The famous Schichau Yards built large warships and commercial liners, including the sister ships named "Columbus" (1913 and 1922, respectively), of over 30,000-ton size.

As the capital of the province of West Prussia, Danzig was the seat of various provincial authorities. They included governmental offices dealing with matters of education, taxation, postal, telephone, telegraph, and railroad service, and public health, as well as the

provincial archives, museum, diet, and chambers of agriculture and trade.

The impact on the city's character was profound. Losing her importance as a center of international trade and developing into a seat of governmental administration and the principal eastern German military and naval center, she became a city of civil servants (*Beamtenstadt*), with a heavy admixture of men in army and navy uniforms.²⁶ The civil servants and officers came to Danzig from all over the Fatherland and, in turn, her sons went into all corners of Germany in similar capacities. The local patrician families became submerged in the process, while Danzig patriotism gave way to a loyalty of wider scope—to Prussia and, after 1871, to the Kaiser Reich. When 1918 saw the defeat of the Empire, Danzig felt it deeply as a German city. Her attention was soon directed toward the resurrection of the Polish state and its possible expansion toward the mouth of the Vistula River.

HISTORICAL SUMMARY

In her thousand years of known history Danzig has run the gamut of fortune and misery, ranging from leading membership in the Hanseatic League to pestilence and destructive war. After the first historical mention in A.D. 997, under the name of Gyddanyzc, when she was a modest settlement of Kashubian fishermen, Danzig existed variously under the Teutonic Knights and Polish princes, with long periods of local sovereignty in between. Owing to her favorable location, her commerce developed early, until, by the eleventh century, it extended as far as Germany, Bohemia, Hungary, Prussia, and England.

German influences were strong in her early history, when Slavic dukes encouraged the settlement of German monks, nuns, and merchants. The German law of Lübeck was granted to Danzig in 1235 by Duke Swantopolk. With the rest of Pomerelia, the city became a part of the territory belonging to the Teutonic Knights in 1308. Under the rule of the Teutonic Order (1308–1454), German immigration increased and trade prospered. On the other hand, friction

²⁶ After the establishment of the Free City the large residence formerly occupied by the German Army Command became the abode of the League of Nations High Commissioners, who considered it too large, uncomfortable, and expensive. When an attempt was made by High Commissioner McDonnell to move to more congenial quarters he was persuaded to remain, on the ground that greater prestige attached to this building than to any other in Danzig (see Foster MS, "The Free City of Danzig," p. 47). This was a significant comment on the changed mentality of a city that had existed for many centuries by and for its commerce.

developed between the burghers and the Knights and, when the Order crumbled, Danzig joined a personal union with Poland in 1454. In the following period of the rather nominal rule by the Polish kings (1454–1793), Danzig enjoyed immense growth. She developed into one of the largest and richest commercial cities of the time. As early as 1295 she had participated in the affairs of the Hanseatic League, becoming in the course of time the leader of all Prussian and Livonian (Latvian) member cities. Fleets of her ships went to the busy ports of the Baltic and North seas, where the Hanseatic League played a dominant role. While acknowledging Casimir of Poland as her sovereign, Danzig was able to remain a member of the Hanseatic League, to conclude offensive and defensive alliances with foreign nations, to maintain her own diplomatic representatives abroad, and to receive the envoys of other powers. The rights of the Polish kings in Danzig were few in number and slight in importance. During the 340 years of Danzig-Polish union, Poland enjoyed the desired access to the sea via Danzig; but the city had such financial and other power that she was the subject of the Polish king often in name only.

Danzig now became one of the largest commercial cities of Europe, with trade relations extending from the Gulf of Finland to Portugal and the Adriatic Sea, even the Levant. In those prosperous days the burghers built the magnificent public and private buildings which still characterize the city. But at the turn of the sixteenth century Danzig had reached the peak of her power and prosperity and signs of change appeared on the horizon.

After a few more decades of peace, eastern Europe was torn almost continuously for some two hundred years as Poland and Sweden, Russia and Prussia sought power in the Baltic Sea and political hegemony in the lands along the Vistula. Danzig was too strong to be overlooked by the powers and too weak to defend herself by her own efforts. She suffered greatly from war and occupation by foreign troops, the plague, and loss of commerce. Danzig declined and her population decreased sharply. On the occasion of the Second Partition of Poland in 1793 she was taken over by Prussia. After a brief interlude (1807–1814) as a Free State by decree of Napoleon, Danzig settled down to the life of a Prussian administrative and military center, enjoying a quiet prosperity, while losing her former glory and wealth. During World War I she contributed her share like any other part of Germany. At the war's end Danzig found herself separated from the Fatherland and once more set out on a career of independent statehood, subject to certain restrictions in favor of Poland, the natural hinterland of the Vistula city.

DANZIG AT THE PEACE CONFERENCE

The story of Danzig at the Paris Peace Conference forms a dramatic chapter, and like so many in the city's history is intimately tied up with that of Poland. The attempt to solve the Polish question proved to be one of the most vexing problems before the delegates assembled to reconstruct war-torn Europe.

THE CAUSE OF POLISH FREEDOM

The dream of Polish patriots of the resurrection of their ancient state saw a fulfillment in Paris that went far beyond their fondest early hopes. At the outbreak of World War I the slogan of a reborn, free Poland was still a matter of rhetoric, confined to holiday occasions in self-governing Austrian Poland where such demonstrations were possible. When the fighting started, the hopes of Poles flamed up; but their opinions as to how their national aspirations could best be realized were deeply divided. In fact, in the words of the Polish historian, Roman Dyboski, "disputes between supporters of Russia on the one hand, of the Central Powers on the other, became unfortunately the dominant feature of Polish life during the first two years of the war."¹ Joseph Pilsudski, leader of the Polish Socialist party, who had grown up during bitter struggles against Russian tyranny and had lately received support from Austria, led the group supporting the Dual Monarchy. On the other hand, Roman Dmowski and his National Democrats co-operated with Russia, and looked upon Germany as the most dangerous enemy to Polish nationality.² Between these extreme tendencies were all shades of opinion. Among the Poles who had no opportunity to choose sides, 700,000 were conscripts in the Russian army and an equal number were in the German and Austrian forces.³ In addition, Polish volunteers stood on opposite sides of the front.⁴ The Poles in

¹ Roman Dyboski, *Outlines of Polish History* (London, 1925), p. 257 Hereafter cited as *Polish History*.

² Roman Dyboski in "The Polish Question during the World War. Military Efforts and Political Activities of the Poles," in W. F. Reddaway and others (eds.), *The Cambridge History of Poland, 1697-1935*, pp. 461-70.

³ H. H. Fisher, *America and the New Poland*, pp. 62-64.

⁴ Dyboski, *Polish History*, p. 257.

America disagreed as heartily among themselves as did those in Europe over the preferability of co-operating with Austria or with Russia; but they were in a position to demand earlier than any other group that the new Poland be completely independent of any of the Partition powers.⁵

During the war, both Russian and Austro-German proclamations offered schemes for the establishment of some kind of new Poland, in an endeavor to curry Polish favor and secure additional manpower. Both attempts were dismal failures. Pilsudski finally found himself locked up for the rest of the war in the German fortress of Magdeburg. Dmowski, beginning to stake his hopes entirely on the Western Allies, who after 1917 no longer had to heed Russian sensitiveness on the Polish question, went to England, where he began a strenuous campaign for the restoration of a united and independent Poland which should include East Prussia in addition to the territories held before the First Partition in 1772.⁶ But the first definite and impressive results were achieved in the United States when Ignace Paderewski won the sympathy of Colonel House for the Polish cause and, through him, the sympathy of President Wilson. Paderewski later described his third interview with the President (November 6, 1916):

I told him how the Polish nation hoped to realize independence and the unification of its territory. Wilson listened attentively, nodded in agreement, and asked me questions. *The problem of our access to the sea particularly interested him.* When I left him he assured me cordially that the Poles could be sure of his support . . .⁷

In January 1917 Paderewski prepared a memorandum on the Polish question at the request of Colonel House, who submitted it to President Wilson.⁸

WILSON'S FOURTEEN POINTS

As early as January 22, 1917, President Wilson spoke of Poland in his "peace without victory" speech, in which he stated, "I take it for granted that statesmen everywhere are agreed that there should

⁵ Fisher, *op cit*, p. 64.

⁶ Bernadotte E. Schmitt, "The Polish Problem in International Politics" in *Cambridge History of Poland*, pp. 481-88; Dyboski, "The Polish Question during the World War," *ibid.*, pp. 462-70.

⁷ Casimir Smogorzewski, *Poland's Access to the Sea* (London, 1934), pp. 91-92. Italics provided by the Polish author.

⁸ *Ibid.*, p. 92

be a united, independent, and autonomous Poland." If Wilson's claim was rather generous and was unsupported other than by lip-service, it nevertheless gave a tremendous impetus to Polish claims and hopes—in America, in Russia, and in the districts under German occupation. As H. H. Fisher observes, it was

the first occasion when the chief of a great power championed the cause of Polish nationalism without doing so in the interest of someone besides the Poles It emphasized the inadequacy of the Russian and the Austrian solutions of the Polish problem. This American proposal was so far in advance of what European diplomacy was prepared to recognize that a year elapsed before the western Allies were ready to follow Wilson's lead.⁹

Neither France nor Great Britain made a definite commitment on the Polish question during 1917.¹⁰ Only on January 5, 1918, was Lloyd George ready to declare in his speech on war aims before the British Trade Unions that he believed "an independent Poland, comprising all those genuinely Polish elements who desire to form part of it, is an urgent necessity for the stability of Western Europe."¹¹

Important as this speech was, it was overshadowed by President Wilson's address to Congress three days later, when he proclaimed his Fourteen Points in what proved to be the most momentous of all speeches on war aims. The Thirteenth Point, dealing exclusively with Poland, stated:

"An independent Polish State should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant."

The question of Polish freedom could no longer be ignored by the Allies. On June 3, 1918, the British, French, and Italian Premiers followed suit with similar announcements of policy, stating that "the creation of a united and independent Polish state with free access to the sea constitutes one of the conditions of a solid and just peace and of the rule of right in Europe."¹²

⁹ Fisher, *America and the New Poland*, pp. 93-96.

¹⁰ See *ibid.*, pp. 97-98, for explanations of their attitude. As late as March 11, 1917, the Franco-Russian understanding allowed Russia "complete liberty in establishing her western frontiers"; Ray Stannard Baker, *Woodrow Wilson and World Settlement* (New York, 1922), I, 58.

¹¹ Fisher, *op. cit.*, pp. 111-12.

¹² Bernadotte E. Schmitt, in *Cambridge History of Poland*, p. 489.

THE MEANING OF THE THIRTEENTH POINT

Germany's initial request for an armistice was based on "the stipulation that the peace to follow would be in accordance with Wilson's Fourteen Points and the principles laid down in his subsequent speeches." This German condition, in turn, was accepted by Wilson and finally also by the Allies, "with a reservation touching one of the principles and an explanation regarding another."¹³ It should be pointed out, however, that the Fourteen Points had been drafted in general terms in January 1918, at a time when it would have been difficult if not impossible to make peace terms more precise. Their very vagueness, which had fitted them admirably for propaganda purposes, left much to be desired when it came to fixing the details of the peace settlement.¹⁴ The settlement of the Polish question was greatly handicapped by this indefiniteness.

The Thirteenth Point had been taken almost literally from Wilson's stenographic annotation on the report of the American Inquiry on War Aims and Peace Terms, made early in January 1918. This organization of historians, economists, geographers, statisticians, ethnologists, and students of government and international law, organized in September 1917 in New York under the direction of Colonel House,¹⁵ had prepared valuable maps, statistics, and memoranda on subjects likely to come up before the Peace Conference.

The conclusions of the Inquiry, drawn up by S. E. Mezes, David Hunter Miller, and Walter Lippmann, stressed that the boundaries of the new Poland "shall be based on a fair balance of national and economic considerations, giving due weight to the necessity for adequate access to the sea." It continued:

¹³ Charles Seymour (ed.), *The Intimate Papers of Colonel House* (New York, 1928), IV, 148. President Seymour adds: "No matter how helpless Germany might be physically as a result of the military terms of the Armistice, she had acquired, through the pre-Armistice Agreement, the right to a peace settlement based upon the Fourteen Points" For the pre-Armistice Agreement, see Alma Luckau, *The German Delegation at the Paris Peace Conference* (New York, 1941), pp. 3-26. Harold Nicolson, *Peacemaking 1919* (London, 1933), states (p. 16): "... it is difficult to resist the impression that the Enemy Powers accepted the Fourteen Points as they stood; whereas the Allied Powers accepted them only as interpreted by Colonel House at the meetings which culminated in his cable of Oct. 29. Somewhere, amid the hurried and anxious imprecisions of those October days lurks the explanation of the fundamental misunderstanding which has since arisen."

¹⁴ Seymour, *House Papers*, IV, 152.

¹⁵ James T. Shotwell, *At the Paris Peace Conference* (New York, 1937), pp. 3-19; also Sidney Edward Mezes in Edward M. House and Charles Seymour, *What Really Happened at Paris* (New York, 1921), hereafter referred to as *What Really Happened*, pp. 1-14; Baker, *Woodrow Wilson and World Settlement*, I, 108-9; Seymour, *House Papers*, III, 170-72, 319-21.

. . . . The subject of Poland is by far the most complex of all the problems to be considered. The present distribution of Poles is such as to make their complete unification impossible without separating East Prussia from Germany. This is probably not within the bounds of practical politics.

It is apparent that the establishment of a Polish Corridor following ethnographic lines had been up for discussion but that it had not gained the support of the experts composing the Inquiry. In lieu of a corridor they mentioned specifically the possibility of Polish access to the sea through the Vistula River and the German canals leading to Bremen and Hamburg. They suggested also that such a relationship with Germany "would very probably involve both the economic subjection of Poland and the establishment of an area of great friction [however] the experiment must no doubt be made."¹⁶

As drafted by Wilson after the Inquiry report, Point XIII contained a sharper emphasis on the ethnographic principle but did not further clarify the means by which Poland should achieve the promised "secure and free access to the sea."

Since Colonel House was continually being asked by the Allied leaders to interpret the Fourteen Points, he cabled a commentary to Wilson on October 29, 1918. This the President accepted the following day as "a satisfactory interpretation of the principles involved," adding that the details of application mentioned should be regarded as merely illustrative suggestions.¹⁷

Inasmuch as Wilson's approval made the commentary the closest approximation to an official American program that was ever drafted, it was regularly used by Colonel House in his discussion of the Fourteen Points with the Allied leaders.¹⁸ In regard to the Thirteenth Point just quoted, the commentary stated:

The chief problem is whether Poland is to obtain territory west of the Vistula which would cut off the Germans of East Prussia from the Empire, or whether Danzig can be made a free port and the Vistula internationalized

The Principle on which frontiers will be delimited is contained in the President's word "indisputably." This may imply the taking of an impartial census before frontiers are marked.¹⁹

Unfortunately this official American commentary left unsettled

¹⁶ Baker, *Woodrow Wilson and World Settlement*, III, 37-38. For text of the recommendations of the Inquiry in regard to Poland, see Appendix of Baker.

¹⁷ Seymour, *House Papers*, IV, 153. The commentary was drafted by Walter Lippmann and Frank Cobb.

¹⁸ *Ibid.*, IV, 153-54, 158.

¹⁹ Seymour, *House Papers*, IV, 200.

the question as to what was meant by the phrase, "a free and secure access to the sea." David Hunter Miller, of the American State Department, later Technical Adviser at the Peace Conference, had pointed out in a memorandum dated July 31, 1918, that the most difficult question connected with the boundaries of Poland arose in connection with this stipulation. He saw three possible interpretations of the phrase: (1) Poland could be given territorial access to the sea through Polish territory extending along the Vistula to the Baltic but not including the distinctly German port of Danzig; or (2) through a union between Poland and Lithuania; or (3) in the absence of territorial access to the Baltic, through an "agreement upon some form of international servitude over the territory of Germany along the Vistula to Danzig, an agreement of perhaps the greatest complexity of any known to international law, in the preparation of which the records and history of the Danube Commission and of the agreements regarding the Scheldt would be of highest value."²⁰

Apparently, President Wilson himself had in mind the third of these alternatives when he thought of the future peace settlement. According to a Polish report, Dmowski and Paderewski knew when they called on President Wilson in September 1918 that in favoring "free and secure access to the sea" he did not assume territorial access; in consequence they made that the principal point of argument during the hour and a half interview. They reported that he asked, "But would it not be sufficient for you if the Lower Vistula and the free port of Danzig were neutralized?" In spite of the strongly negative answer given by the Poles and their insistence upon territorial access,²¹ he allowed the American official commentary on the Fourteen Points over a month later to refer to the internationalization of the free port in Danzig and of the Vistula as a distinct possibility.²² When he was on his way to Europe he still did not appear to favor the extreme Polish claims to Danzig.²³

²⁰ David Hunter Miller, *My Diary at the Conference of Paris with Documents* (privately printed, 1924), II, 440-41. Hereafter cited as Miller, *Diary*.

²¹ Smogorzewski, *Poland's Access to the Sea*, pp. 95-96.

²² Some sections of American public opinion favored giving Danzig to the Poles; they included Secretary of State Lansing, in a memorandum on the territorial settlement, prepared in September 1918; Robert Lansing, *The Peace Negotiations, A Personal Narrative* (New York, 1921), pp. 192, 194; Senator Henry Cabot Lodge, in a speech in November 1918 to the United States Senate, quoted in Fisher, *America and the New Poland*, pp. 356-57; and the *New York Tribune*, early in 1919, quoted in Cray, "The Free City of Danzig," pp. 38-39.

²³ See Dr. Isaiah Bowman's Memorandum on the Conference with President Wilson "... As for the form of Poland's government and questions like that of

The solution of the Polish problem was baffling to the experts;²⁴ to say the least. Because the Americans themselves were not ready to state in detail what the meaning of the Thirteenth Point was in terms of practical application, the question was still open on Armistice Day 1918 and subject to struggles behind the scenes at the Peace Conferences.

THE TASK OF THE PEACE CONFERENCE

When the Peace Conference faced the question of the resurrection of the Polish state, it found itself confronted with a wide variety of intricate considerations and claims of an ethnographical, geographical, economic, religious, historical, and political nature that were often contradictory in purpose or effect. In addition, there were involved some matters of conjecture or wishful thinking, while certain demands were put forward for bargaining purposes.

It was readily agreed by the Powers that an independent Poland should be established on an ethnographic basis, consisting of Polish parts of Russia, Austria, and Germany, and that it should have a free and secure access to the sea. But the determination of the boundaries of the new Poland, and the best way of assuring her connection with the sea, were still unsettled. Wilson's Thirteenth Point represented an ideal for the Paris peacemakers, and a just one, but when the attempt was made to apply it in terms of definite boundaries, a contradiction became immediately apparent. A Polish state was to be erected, consisting of indisputably Polish populations and enjoying free and secure access to the sea. But the port which

the disposition of Danzig, he would only say that he was in favor of their having *any government they damned pleased*, and that he was for imposing upon them *no other provision* than those which applied to individuals—the important thing is *what a person ought to have, not what he wants* [italics by Bowman].” This last phrase seems to be contradictory to the preceding sentence. As to this, Dr Bowman on December 2, 1924, wrote Miller as follows: “The President was making two points, first that he was in favor of letting them have a wide area of liberty in which to play with reference to their form of Government; second, that so far as their outside relations were concerned he also wished to meet them halfway, but in dealing with them he wanted to set up the principle that the nationalistic desires of a particular people could not be always or fully satisfied though he did feel that the Peace Conference could give each nation what it ought to have. In the form in which my memorandum casts his thought there is room for misinterpretation. I hope this explanation makes it clear.” Miller, *Diary*, I, 370-73, reprinted in Shotwell, *At the Paris Peace Conference*, pp. 75-78.

²⁴ “Of all the parts of the Versailles Peace Treaty, there is perhaps none which it required greater moral courage to make or which it may be more difficult to uphold than the Polish-German settlement.” Charles Homer Haskins and Robert Howard Lord, *Some Problems of the Peace Conference* (Cambridge, Mass., 1920), p. 172.

the Poles demanded as a needed gateway to the Baltic was inhabited by Germans. It was impossible to restore Poland on a purely ethnographic basis and at the same time have her annex the German city of Danzig. In fact, Poland, unwilling to limit herself to territories with indisputably Polish populations, put her demands on different grounds.

Her claims were first presented before the Council of Ten on January 29, 1919, by Roman Dmowski,²⁵ one of the two delegates of his country to the Peace Conference, Paderewski being the other. Invited by Clemenceau, as chairman, to state whatever he might have to say on the Polish question as a whole, he delivered an oration that "was for more than one reason arresting. The established practice was for speakers to address the Council either in French or English for ten minutes, and to resume when the interpreter had translated their words into the other tongue. Dmowski, however, in welcoming a League of Nations, had said in French that his country lay in that part of Europe in which the greatest danger threatened peace. The English version made him say that his country formed the greatest danger to peace. Now, therefore, he became his own translator, and spoke in alternate languages for some five hours, reaching the nineteenth century at 4 P.M. His improvised address aimed especially at winning the sympathy of Wilson."²⁶

In the course of his presentation, Dmowski called attention to the Germanizing policy of the Reich in the eastern provinces,²⁷ referring to the anti-Polish laws, the economic measures, and the prohibitions of the use of the Polish language in the schools. He suggested that in settling the boundaries of Poland the date of 1772 be used as the point of departure, and that: "the boundaries should be rectified according to present conditions. . . . In settling the boundaries of Poland, the principle of including within those boundaries those territories where the Poles were in a large majority, must not be accepted altogether. In the West, Poland could not be satisfied with the historical boundaries of 1772" Summing up "the

²⁵ "Dmowski is a charming man of the most amiable manners . . . politically he is an opportunist, a reactionary and an anti-Semite . . . supple, polished, and Imperialist . . . for a long time Dmowski, in spite of, or rather because of, his associations with the late Czar, his dislike of agrarian reform, and his antipathy to Jews, was supported by the Quai d'Orsay as against Pilsudski, who was regarded as dangerously advanced" Sisley Huddleston, *Peace-Making at Paris* (London, 1919), pp. 43-44.

²⁶ W. F. Reddaway, "The Peace Conference, 1919," in *Cambridge History of Poland*, p. 496.

²⁷ Richard Wonser Tims, *Germanizing Prussian Poland* (New York, 1941).

question of what is, or what is not, Polish territory, he said that a rough definition would be that such territory as had been oppressed by anti-Polish laws was Polish territory.²⁸ From the point of view of the preservation of peace, it was evident that if the coast belonged to one nation and the land to another, there would be mutual tendency to conquest."²⁹

When, a month later, Dmowski detailed the Polish claims for her western frontiers in a formal note to M. Pichon, the French Foreign Minister, he maintained that Poland should be re-established with the frontiers of 1772, modified by the subsequent expansion or contraction of the Polish race and by the economic and strategic needs of her position between Germany and Russia.³⁰

In order to understand the significance of the sweeping Polish demands, it is necessary to take a glance at the Poland of 1772. Poland was then the third largest state on the Continent, with an area of 282,000 square miles, while in population it stood fourth, with over 11 million people. Its frontiers extended from the Baltic and the Carpathians to the Dnieper and the Dvina, including nearly the whole of that broad isthmus between the Baltic and the Black seas. This Poland was perhaps more of a natural geographic unit than the new Poland of 1919. Polish geographers, at any rate, have generally claimed for it a high degree of physical unity with respect to its structure, climate, products, river systems, and other features, maintaining that "historic Poland," stretching from sea to sea, was "the ideal political arrangement for this region, the only arrangement that would make the picture fit the frame."³¹

On the other hand, the old Polish state suffered from the fact that its population was far from homogeneous. Even Poland's great friend, Robert H. Lord, then professor at Harvard University and American expert on eastern Europe at the Peace Conference, admitted that the Poles

can scarcely have formed more than 50 percent of the population, at the most; more than one-third of it was made up of Ukrainians and White Russians, the remainder consisted of Germans, Jews, Lithuanians, Letts, Armenians, and Tartars. It may be surmised that if this state had lasted

²⁸ This very rough definition would take in areas with Polish minorities.

²⁹ Miller, *Diary*, XIV, 54-66.

³⁰ Reddaway, *Cambridge History of Poland*, p. 497

³¹ Robert H. Lord, "The Resurrection of Poland," in Temperley, *Peace Conference of Paris*, VI, 223-24.

For the claims of Russian and Ukrainian geographers to the same region, see Haskins and Lord, *Peace Conference Problems*, p. 158.

into the nineteenth century, it would have had to face very serious troubles from nationalist movements, which have disrupted most other states containing a similar medley of peoples.³²

The Poles, who were "continually driven to make the comparison between the new Poland that is being created, and the old 'historic' Poland that existed before the Partitions,"³³ demanded at Paris that the ethnographical frontier should be the determining factor against the Germans, the necessary modifications because of economic or other considerations being made to the advantage of Poland. In the term ethnographic frontiers they included all regions in which they claimed Poles by race or language were in a majority, assuming that Polish race and language implied in all cases a wish to be united to the new Polish state. They went "considerably further than the Entente Powers in their desire to modify the ethnographic frontier to their own advantage for economic and other reasons. Perhaps in certain cases they asked for more than they really expected to receive and sometimes damaged their position by asking too much."³⁴

THE INQUIRY'S RECOMMENDATIONS

After their arrival in Paris, the experts of the Inquiry, thereafter known as the American Intelligence for Territorial, Political, and Economic Questions, prepared tentative recommendations on German boundaries for President Wilson's guidance;³⁵ these were followed by a more conclusive report in February.³⁶ These recommendations went far toward meeting the extreme Polish demands for German territory, granting Polish territorial access to the sea through "indisputably Polish territory" and including Danzig in this "corridor"³⁷ on the ground of major economic and geographic necessity—Danzig being the natural port of Poland.

The report granted at the same time that Danzig was "unquestionably a German city." As Paul Birdsall puts it, "This was neither the first nor the last time that Wilson was embarrassed by the recom-

³² Lord, in Temperley, *op. cit.*, VI, 224.

³³ *Ibid.*, p. 223.

³⁴ *Ibid.*, pp. 235-36.

³⁵ "Tentative Report and Recommendations Prepared by the Intelligence Section, in Accordance with Instructions, for the President and the Plenipotentiaries, January 21, 1919," text in Miller, *Diary*, IV, 224-26.

³⁶ "Proposed New Boundaries for Germany. First Red Book"; Miller, *Diary*, VI, 48-52 (see text in Appendix).

³⁷ The Inquiry report repeatedly uses the expression "corridor," a term which the Poles usually reject as a German invention or invective. Even the Polish commission at the Peace Conference refers repeatedly to the "Polish Corridor"; see below, pp. 49-50.

mendations of his own experts."³⁸ On board the S.S. "George Washington" he had urged them: "Tell me what's right and I'll fight for it; give me a guaranteed position." After telling them that they "should only go so far in backing the claims of a given Power as justice required 'and not an inch farther'," he referred to a remodeled quotation from Burke: "Only that government is free whose people regard themselves as free."³⁹ Birdsall points out that Wilson here encountered the strong pro-Polish sympathies of Professor Lord, Chief of the Polish Division of the American Peace Commission,⁴⁰ who had been the only American university specialist in Polish history,⁴¹ and that these sympathies were generally shared by most members of the Inquiry, though they regarded his as excessive.⁴²

When the first, tentative report was issued on January 21, Wilson insisted at a meeting of the Supreme War Council that the question of Danzig must remain open.⁴³ Dmowski was certain that his speech to the Supreme Council a week later convinced Wilson that Danzig must be Polish, claiming that the President sent him a message to that effect through Colonel House.⁴⁴ It seems unlikely, however, as Birdsall points out in some detail,⁴⁵ that Wilson would have de-

³⁸ Paul Birdsall, *Versailles Twenty Years After* (New York, 1941), p. 178.

³⁹ See the Bowman Memorandum in Miller, *Diary*, I, 370-73 (italics by Bowman), reprinted in Shotwell, *At the Paris Peace Conference*, pp. 75-78, and Seymour, *House Papers*, IV, 280-83.

⁴⁰ Miller (*Diary*, I, 289) called him "very pro-Polish." Lloyd George (*The Truth about the Peace Treaties* [London, 1938], p. 722) called him Wilson's "somewhat fanatical pro-Polish expert" Walther Recke calls him a "fanatical champion of Polish interests against Germany"—*Die Wiederaufrichtung Polens in Versailles* (Berlin, 1928), p. 12, reprinted from his larger *Die polnische Frage als Problem der europäischen Politik* (Berlin, 1927).

When the present writer saw Dr. Recke in Danzig in 1918 and told him that Professor Lord had resigned from Harvard and become a priest, he showed great surprise. On second thought, however, he suggested that he had done so "to atone for his sins at the Peace Conference." According to Recke (p. 14 n.), Dmowski stated that Lord directed the work of the Polish Section of the American Peace Commission "without prejudice and thereby was very helpful to us."

⁴¹ Shotwell, *At the Paris Peace Conference*, p. 8.

⁴² Birdsall, *Versailles Twenty Years After*, p. 177. Shotwell states that he and Professor Allyn A. Young were unconvinced that the Danzig Corridor was wise, or even in Poland's own interest (Shotwell, *op. cit.*, p. 190). Smogorzewski (*Poland's Access to the Sea*, p. 94) states that within the Inquiry there was a Polish subcommittee, presided over by Lord, who had as collaborators two Poles, Professors Arctowski and Zwierzchowski.

⁴³ Miller, *Diary*, XIX, 118.

⁴⁴ Smogorzewski, *Poland's Access to the Sea*, p. 121.

⁴⁵ Birdsall, *Versailles Twenty Years After*, pp. 178-79.

parted from his general policy of avoiding all commitments on territorial questions at this stage of the Conference.

While Wilson was absent from Paris a group of American and British experts met on February 21 to examine jointly the question of changes in the German frontiers. They considered especially possible alternatives to the cession of a "purely German" area to Poland with the possible result that "even the more sensible Germans would refuse to accept the peace as a just and final settlement." Their discussion was inconclusive.⁴⁶

Two days later Colonel House cabled Wilson concerning Clemenceau's insistent demands for the settlement of peace terms, including the assignment of Danzig to Poland. He added: "Our experts also believe this to be the best solution, and they are joined, I understand, in this belief by the British experts, but the British government disagree on this point." Wilson, however, warned House against any commitment to French official policy with regard to the boundaries of Germany.⁴⁷

THE COMMISSION ON POLISH AFFAIRS

The problem of the reconstruction of Poland was one of the first to be taken up at the Peace Conference and one of the last to be finished. For the elaboration of detailed proposals as to the frontiers of the new state, the Supreme Council, then known as the Council of Ten, appointed on February 12, 1919, a Commission on Polish Affairs. France furnished its president, Jules Cambon, French Ambassador to Berlin before the war; the other members were Sir William Tyrrell, the Marquis della Torretta, M. Otchiai (Japan), and, for the United States, Dr. Isaiah Bowman. This was one of the first, if not the first, of the territorial commissions set up and, according to Professor Lord, made something of a record for industry, sitting from February to December, at some periods meeting nearly every day in the week and sometimes twice a day. He believed that it held more meetings than almost any other commission of the Peace Conference.⁴⁸

While the Commission received no detailed or precise instructions from the Supreme Council, Professor Lord later reported that individual members

frequently sought and obtained directions from their superiors on particular points, but in the main, the commission was left to work out its

⁴⁶ Miller, *Diary*, XIX, 117-18.

⁴⁷ Seymour, *House Papers*, IV, 334-36

⁴⁸ Lord, in House and Seymour, *What Really Happened*, p. 72.

problems as it thought just and right, always bearing in mind the general principles adopted by the Peace Conference and whatever each of us might know as to the views of our respective governments. And since there seems to be a wide-spread opinion that at Paris the Fourteen Points were from the start buried in oblivion, I should like to attest that in the discussions about Poland, both in the commission and before the Supreme Council, the particular "point" among the fourteen that referred to Poland was both the principle from which the discussion started and to which appeal was made again and again.⁴⁹

However, as Professor Lord acknowledged and as the declarations of the Allied Prime Ministers pointed out, the Thirteenth Point allowed considerable latitude of interpretation. There was much room for discussion of what constituted an "indisputably Polish population," which territories really contained such a population, and what was meant precisely by "free and secure access to the sea."⁵⁰ Therefore it is important to review briefly the attitudes of the Great Powers toward the Polish question—attitudes that frequently manifested rather divergent tendencies with regard to Polish problems.

THE ATTITUDE OF THE GREAT POWERS⁵¹

French policy was on the whole extremely favorable to Poland, although imposing some restrictions on her in her dispute with Czechoslovakia over Teschen and on her expansion on the western frontier of Russia, France's old ally, who might some day be won back. With those exceptions, France was for a Poland "grande et forte, très forte," as M. Pichon, the French foreign minister, declared. France and Poland, the two states which were to gain most territory at the expense of Germany, were bound together by their common interest in upholding the new settlement. For these reasons France became the strongest advocate of Polish expansion, although she did not wish to go as far as the Poles themselves.

Great Britain's stand was quite different. Committed to the restoration of an independent Poland, and undoubtedly sincere in her expressed desire to see one established, Britain was the only power opposing or limiting the Polish claims in all the main questions where there were substantial differences of opinion. The Poles blamed Lloyd George for this British attitude.⁵² The primary reason

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, p. 69

⁵¹ We follow here Lord, in House and Seymour, *What Really Happened*, pp. 70-71, and H. J. Paton, in Temperley, *Peace Conference of Paris*, VI, 238-40.

⁵² Some Poles attribute Lloyd George's attitude to Dmowski's "personal attacks" on him in his book *Polityka Polska*; Professor S. Kutrzeba claimed in his

for his attitude seemed to be simply that Great Britain regarded Poland as a liability rather than an asset. Poland was a weak country. As Professor Lord pointed out, she was

set down between a hostile Germany and a no less unfriendly Russia. The defense of such a state was likely to be something of a burden for the signatories of the peace treaty; the more contested territories you assigned to it the greater were the chances of getting into trouble on its account; and England seems to have had little desire to increase her responsibilities unnecessarily in behalf of a state that was a natural client of France but of no special interest to herself.⁵³

The British were convinced that if Poland was to be strong both internally and externally the right of self-determination should be the guiding principle in fixing her boundaries. If Poland should receive more Germans than necessary in addition to unwilling Lithuanians, White Russians, and Ruthenians, her political effectiveness would decrease with the increase in her size. The fact was not to be forgotten that she would be surrounded by Russia and Germany, two of the great powers of Europe, each smarting under a sense of injustice and likely to be brought together in political action.

Among the Allied and Associated Powers the United States had displayed the earliest interest in Polish independence and, like France, possessed certain historic ties with Poland. While President Wilson and his advisers were genuinely friendly and sympathetic toward Poland—according to Lord—they viewed her problems primarily from the standpoint of the general principles involved. In regard to the frontiers with Germany, the Americans, like the British, were conscious of the danger of including too many Germans in the new Polish state. In the earlier stages of the negotiations the American and British points of view were very similar; but in the later stages, notably in regard to Danzig and Upper Silesia, the Americans displayed considerable reluctance before accepting the modifications proposed by the British.

In general, the Italians were disposed to favor Polish claims but were not very active in their support, while the Japanese scarcely intervened at all in these questions.

book, *Polska odrodzona (Poland Resurrected)*, that Great Britain wished a small and weak Poland because a strong one would increase the power of France too much; see Robert Machray, *The Poland of Pilsudski, 1914-1936* (London, 1936), p. 88. Lloyd George did utter some uncomplimentary remarks about the Poles, stating, for instance, at a meeting of the Supreme Council that, "The Report of the Polish Commission showed that the Poles were not incapable of claiming more for themselves than was theirs by right" (Miller, *Diary*, XV, 418).

⁵³ House and Seymour, *What Really Happened*, pp. 70-71

THE DELIBERATIONS OF THE SUPREME COUNCIL

Usually the Supreme Council accepted the proposals of the Polish Commission without serious alterations. However, there were several occasions when it substantially changed them or set them aside completely, once even overruling one of its unanimous major recommendations.⁵⁴

The first report of the Polish Commission was completed on March 12, 1919, and was submitted to the Supreme Council the same day. It was read by Cambon. "At last the time had come for settling the details of a particular boundary. Up to this time everything had been preliminary—the taking of evidence; now there was to be fixed a definite frontier."⁵⁵

The report recommended that Poland should be granted most of the areas she had asked, including the city of Danzig, and stated

The question of the town and port of Dantzic has been the subject of very careful consideration by the *Commission*, who are unanimously of the opinion that both town and port should be given to Poland in unrestricted ownership. This recommendation is based on the following considerations: (I) The legitimate aspirations of the Polish people for an outlet to the sea, as endorsed by Allied statesmen, cannot be fulfilled unless Dantzic becomes a Polish port. (II) The so-called Polish corridor to the sea should become a part of the Polish State, because the interests of 1,600,000 Germans in East Prussia can be adequately protected by securing for them freedom of transit across the corridor, whereas it would be impossible to give an adequate outlet to the inhabitants of the new Polish State (numbering some 25,000,000) if this outlet had to be guaranteed across the territory of an alien and probably hostile Power. Finally, the fact must be recognized that 600,000 Poles in West Prussia would under any alternative plan remain under German rule. (III) The interests of the German commercial population of Dantzic will be best served by the development of Dantzic as a Polish port. (IV) With the exception of the neighborhood of Dantzic, itself, every district in the proposed Polish corridor contains a Polish majority. (V) The trade of Dantzic has been deliberately stifled by the policy of the Prussian Government, and the removal of the artificial restrictions at present in existence will result in a great increase of population. This additional population will in the natural course of things be composed of Poles, who occupy practically the whole of the hinterland for which Dantzic is the only adequate port. (VI) A proposal to allocate to Poland the port of Neufahrwasser while leaving the town of Dantzic in East Prussia was considered and rejected in view of the fact that the town and port form

⁵⁴ Lord, in House and Seymour, *What Really Happened*, p. 72

⁵⁵ Isaiah Bowman, in *ibid.*, p. 160.

a single unit with the most intimate economic and physical connexions which preclude their separation.⁵⁶

This report was the origin of the famous Polish "corridor to the Baltic" which the Commission proposed on ethnographic grounds as well as to give Poland her promised free and secure access to the sea. According to Lord, it seemed to the Commission that there were strong grounds for holding that this "free and secure access" could be obtained only across and through territory actually owned and controlled by Poland, and that it could not be regarded as assured if the lower course of Poland's greatest river and the port at its mouth were left in the hands of Germany. For Germany has always been Poland's chief enemy, and unless all prevision fails is likely to remain so for a long time to come.

The Commission was led by these considerations "to propose the corridor, and, it must be added, to propose to build it somewhat broader than strictly ethnographic reasons would have warranted." For the city and district of Danzig were to be included, although their population was overwhelmingly German. This was done in the "conviction that that city was the natural port of Poland, and the

⁵⁶ Miller, *Diary*, VI, 355-56. The general principles guiding the experts are stated as follows:

- "a) That primary consideration be given to the line of ethnic separation in such a way as to secure the fairest possible settlement between the two peoples concerned.
- "b) That rectifications of the frontier, in some places in favour of the Poles and in others in favour of the Germans, be made where the ethnic facts are outweighed by the other facts and principles involved.
- "c) That due weight be attached to lines of religious cleavage, as for example, in Mazuria, where a Protestant population exists which is Polish in speech and race.
- "d) That slight adjustments be made in a line based on the above determining considerations wherever such adjustments would make the proposed line coincide with a well-recognized line of historical division, as, for example, on the borders of the province of Poznań, which coincide with the frontier of the Kingdom of Poland prior to 1772.
- "e) That natural economic relations and existing means of communication be taken into consideration in order that the normal industrial life of each community should be restored as quickly as possible.
- "f) That account be taken of the exposed situation of Poland between Russia on the one hand and Germany on the other, and that after all the above factors have been duly taken into consideration, attention be paid to the strengthening of the defensive frontiers of the new Polish State. While such a strengthening in no case gives Poland any advantage for offensive action, it diminishes to some extent the dangers which threaten her, exposed as she is to attack on the east, the west, and the north over unobstructed plains which offer at best but insignificant natural defences."—Miller, *Diary*, VI, 350-53.

only port in any sense available; and that the only clean-cut solution of the problem was to annex the city outright to Poland."⁵⁷

These proposals had been agreed upon by the experts of all the powers represented in the Commission "after very long discussions and a good deal of give-and-take on all sides." Just how much the experts indulged in the give-and-take game we do not know. When their unanimous recommendations were submitted to the Supreme Council it seemed for a while as if they would be accepted in toto.⁵⁸

But when the Council took up the report for the first time on March 19 it ran into stormy weather. As soon became evident, Lloyd George was greatly dissatisfied with the report. He strongly objected to the proposals of the Commission, holding that within the frontiers proposed there were too many Germans, and warning of the fatal consequences of insisting on such peace terms. As a result of his first intervention the Supreme Council decided that the Marienwerder district should not be transferred to Poland outright but should be subjected to a plebiscite.⁵⁹

The British Prime Minister soon proposed a second change, this time in the matter of Danzig. According to Dr. Isaiah Bowman of the American Delegation,

Suddenly Lloyd George changed from a state of bored indifference to one of aggressive participation. From that moment forward Lloyd George never relaxed his interest or control. Sitting forward in his chair, and speaking in an earnest voice, he proceeded to tear the report to pieces, and the argument he employed wiped the smiles from the faces and drove fear into the hearts of his listeners. "Gentlemen," he said, "if we give Danzig to the Poles the Germans will not sign the treaty, and if they do not sign our work here is a failure. I assure you the Germans will not sign such a treaty."

There ensued a silence that could be heard. Every one was shocked, alarmed, convinced. Lloyd George had introduced a bogey and it had worked.⁶⁰

Lloyd George's arguments and the general discussion are worth reproducing. Addressing his remarks to M. Cambon, the chairman of the Polish Commission, he noted that the report proposed to include not less than 2,132,000 Germans in the future Polish state. This, he said,

was a considerable figure and might spell serious trouble for Poland in the future. The Germans, moreover, might hesitate to sign any treaty

⁵⁷ Lord, in House and Seymour, *What Really Happened*, pp. 77-78.

⁵⁸ *Ibid.*, p. 78.

⁵⁹ *Ibid.*, pp. 78-79

⁶⁰ Bowman, in *ibid.*, pp. 160-61.

containing such a provision. Any terms that no delegate and no government were likely to sign should make the Commission hesitate. The present German government . . . was not very strong . . . If the Allies should present a document requiring from Germany huge indemnities and the cession of a large population to Poland, the German government might collapse. The Poles, as it was, had not a high reputation as administrators. He wished to ask if the committee could not restrict the Polish claims in such a way as to diminish the German population assigned to Poland. In the Danzig district alone there were 412,000 Germans assigned to Poland. Was it "necessary to assign so much German territory, together with the port of Danzig?"

Mr. Cambon replied that he had pointed out in his general explanation that it was very difficult to draw a frontier on a purely ethnological basis and that economic and strategic reasons, therefore, must be given weight.

Lloyd George agreed that it was hardly possible to draw any line that would not have Germans on both sides of it, but thought that it was very dangerous to assign two million Germans to Poland. That was a considerable population—not less than that of Alsace-Lorraine in 1870.

He went on to ask "whether the Commission proposed to define the frontiers of Germany finally on *ex parte* evidence alone. The other side had not been heard. It was not only a question of fairness to Germany but of establishing a lasting peace in Europe." M. Cambon said that

it was quite true the Committee had only heard the Poles. It had not been commissioned to listen to the Germans. It had been asked to examine the means of setting up a Polish State with some prospect of continued life. The Committee had tried to approximate to the Polish State as it existed before the first partition. After examination they had made recommendations of a far more modest character. What had caused the death of Poland was not merely its faulty political system, but principally its lack of communication with the sea. The end of Poland might be considered to have occurred in the year 1743, when Dantzic fell. Without it, Poland could not live. By it alone could Poland have contact with the liberal Powers in the west. It was no use to set up a Poland deprived of access to the sea as it would inevitably be the prey of Germany or Russia. Not only must Poland have a seaboard, but full and free communication with Danzig. If he had to choose between protecting German populations largely imported since the 18th century, and protecting the Poles, he preferred the latter alternative.

M. Tardieu drew attention to the fact that the Committee set up to co-ordinate recommendations as to boundaries had unanimously

approved the report of the Polish Committee, and M. Cambon added that the Polish Commission also had reached unanimous conclusions.

But Lloyd George claimed that, while the British delegates had adopted the conclusions, they "had done so reluctantly. They regarded them as a departure from the principles of the Fourteen Points, which had been adopted by the Allies" M. Cambon had said that a corridor to the sea was necessary to Poland. He, Lloyd George, had nothing

to say against this Wherever it could be shown that the policy aimed at reversing the German policy of expropriation, the decision might be accepted by the Germans, but the areas he had in mind would be represented as "German Irredenta" and would be the seed of future war. Should the populations of these areas rise against the Poles, and should their fellow countrymen wish to go to their assistance, would France, Great Britain and the United States go to war to maintain Polish rule over them? He felt bound to make this protest against what he considered to be a most dangerous proposal.

President Wilson said that the discussion had brought out a difficulty which would be met in many cases, and he had not reached a definite conclusion in his own mind on the particular point under discussion He acknowledged that the inclusion of two million Germans in Poland was a violation of one principle; but Germany had been notified that free and secure access to the sea for Poland would be insisted upon. The Allied and Associated Powers were therefore not open to the reproach that they were doing this merely because they had the power to do it. This was one of the things they had fought for. The difficulty was to arrive at a balance between conflicting considerations.

Wilson continued that it must be realised the Allies were creating a new and weak State, weak not only because historically it had failed to govern itself, but because it was sure in future to be divided into factions, more especially as religious differences were an element in the situation. It was therefore necessary to consider not only the economic but the strategic needs of this State, which would have to cope with Germany on both sides of it, the eastern fragment of Germany being one of most aggressive character. There was bound to be a mixture of hostile populations included in either State. The Council would have to decide which mixture promised the best prospect of security. He was afraid himself of drawing the line as near the Dantzig-Thorn railway line as Mr Lloyd George suggested. He, however, felt the same anxiety as Mr. Lloyd George. The desire might arise among the Germans to rescue German populations from Polish rule, and this desire would be hard to resist. It was a question of balancing antagonistic considerations.

In the end, the matter was referred back to the Polish Commission for reconsideration in the light of this discussion.⁶¹ The principle of Poland's territorial access to the sea now seemed to be agreed upon, but the fate of Danzig was still in the balance.

Lloyd George's criticism of the Polish Commission "leaked out" and provoked a series of bitter attacks on him in the French press of the following day and later in the Northcliffe press. Lloyd George states that they gave "all the appearance of being concerted, inspired and intimidatory." As the discussion before the Council of Ten had supposedly been in the strictest secrecy, he demanded measures to prevent the recurrence of the offense. As a result, the whole problem of continued leakage came to a head, with the sessions of the Council of Ten being eliminated and replaced by the Council of Four.⁶²

Within a day's time, the Polish Commission voted unanimously to uphold their original recommendations, calling them the best possible solution of the problem they had been called upon to solve.⁶³

Two days later, on March 21, the Supreme Council took up the matter again, and at this time Lloyd George reiterated his fears. Although he spoke in favor of giving Poland a corridor to the sea, he wished to do it without handing over to her too large a German population. He repeated that the Allies should not run the risk of driving Germany to such desperation that no government would dare sign the peace terms or that any government that undertook the responsibility of accepting it would immediately collapse.⁶⁴

Wilson again supported the Commission's Report, although less strongly,⁶⁵ while the Council, upon his motion, deferred its decision pending subsequent determination of German boundaries.

After this session Lloyd George returned to Fontainebleau with some of his advisers, including General Smuts and Mr. Philip Kerr (later Lord Lothian), to put down in writing definite indications of the kind of treaty of peace which the British delegation would sign. Copies of the memorandum, entitled "Some Considerations for the Peace Conference before They Finally Draft Their Terms," were

⁶¹ Miller, *Diary*, XV, 423-31, and XIX, 118-19; see also David Lloyd George, *The Truth about the Peace Treaties* (London, 1938), II, 978-90.

⁶² G. Bernard Noble, *Policies and Opinions at Paris, 1919* (New York, 1935), pp. 309, 346 n.; Lloyd George, *The Truth about the Peace Conference*, II, 990.

⁶³ Miller, *Diary*, VII, 75-78.

⁶⁴ *Ibid.*, XV, 470-71.

⁶⁵ "President Wilson was uneasy at the arguments advanced against the conclusions of the Polish Commission. His experts failed to remove his misgivings." Lloyd George, *The Truth about the Peace Treaties*, II, 992.

sent to both Wilson and Clemenceau. Referring specifically to the French proposals concerning the Saar, Rhineland, and Poland as unjustified violations of the principle of nationality and special dangers to lasting peace, Lloyd George proposed as "a guiding principle of the peace that as far as is humanly possible the different races should be allocated to their motherlands, and that this human criterion should have precedence over considerations of strategy or economics or communications, which can usually be adjusted by other means."⁶⁶

THE COMPROMISE

When the Council of Four was organized, discussions seem to have continued in private; for Bowman, the American member of the Polish Commission, reports: "the next we hear of the Danzig question Lloyd George and President Wilson have agreed to make it a free city."⁶⁷

The method by which this settlement was reached is described by David Hunter Miller, Technical Adviser to the American Delegation to the Peace Conference, who received the report from Sidney E. Mezes, brother-in-law of Colonel House and titular head of the Inquiry and American representative on the committee to co-ordinate the reports of all boundary commissions:

Doctor Mezes came in in the afternoon and told me of the situation about the Polish report. Mezes had seen the President and it appears that Lloyd George was opposed to giving Danzig to the Poles, and the President agreed to this because he did not want Fiume to go to the Italians, and if Danzig went to the Poles he would have to consent to Fiume being Italian. So in his talk with Mezes he said that Danzig and the area around it was to be either free or international or independent. Mezes said all three words had been used, and when I asked Mezes specifically if it was to be connected with East Prussia, he said "no!"

Incidentally, Miller relates on this occasion how he and Mezes, with the help of Dr. Bowman, the actual executive head of the Inquiry and the American member of the Polish Commission, endeavored to salvage as much of the Polish Commission's report as was consistent with Wilson's commitment to Lloyd George.

We discussed the matter with a map and Mezes said the other difficulty was the railroad which runs to some extent through the German

⁶⁶ *Ibid.*, II, 406, 416-20.

⁶⁷ René Martel, *The Eastern Frontiers of Germany* (London, 1930), p. 49-50, claims that Lloyd George and Wilson came to this decision after a long conversation on April 5.

part of the country and it had been proposed to put the frontier east of the railroad. The President had said that the line was to be an ethnic line so as not to have so many Germans in Poland. I told Mezes that the railroad presented a great difficulty but that *so far as the independent Danzig was concerned the map could be drawn so that it would never be of much use to Germany.*

Mezes asked me up to his room after dinner and he talked over the Polish question again and got Bowman in. It appeared that Lloyd George has named Sir Eyre Crowe for the British and *the President has named Mezes for the Americans to agree on the Polish question.* Mezes asked me to go with him whenever he went with Crowe and I promised to do so.

As there was some doubt as to just what the President said to Lloyd George and how far the agreement went into detail, I suggested to Bowman that he get up a map, *and showed him how it should be made, which would preserve as much of the Polish Committee's report as possible consistent with our understanding of what the President had said. Mezes is very anxious to go as far for the Poles as he can consistently with the President's understanding.*⁶⁸

Dr. Bowman was informed by President Wilson that it had been agreed to follow the ethnic principle in delimiting Danzig's boundaries and to give the city a "free" status. Spreading out various maps upon the floor of the President's study, Bowman and Headlam-Morley of the English delegation decided to avoid discussion of the relative merits of the ethnic maps of the different delegations by submitting a small map prepared by Lloyd George's advisers. Thereupon, Mr. H. J. Paton, of the British delegation, and Dr. Bowman spent two hours tracing the boundaries of Danzig as they stand in the Treaty of Versailles on a large-scale map prepared by the American Inquiry, in the afternoon "between four and six." The boundaries were then transferred to the British small-scale map for the benefit of Lloyd George and were presented to the Council of Four, where they were adopted without delay.⁶⁹

It now appeared that the Gordian knot had been cut. While Danzig was to be separated from the Fatherland, in order that Poland might enjoy access to the sea via her port, her German character was recognized by the grant of an independent existence in the

⁶⁸ Miller, *Diary*, I, pp. 208-9. Italics supplied by present writer.

⁶⁹ Bowman in House and Seymour, *What Really Happened*, pp. 160-62; similarly, Miller, *Diary*, XIX, 127. According to Dr. Bowman, the map prepared by the American Inquiry was used throughout the Polish negotiations as the authoritative map on ethnic matters. The American experts drafted the Danzig articles which, after some technical alterations, were accepted by the Supreme Council on April 22; Miller, *Diary*, I, 208, 256; also VIII, 335-40, and XIX, 112, 120.

form of a Free City, as opposed to annexation by Poland. The way seemed clear for a new experiment in solving conflicting national interests defying any clear-cut solution.

THE GERMAN COUNTER-PROPOSALS AND THE ALLIED ANSWER

The German *Comments on the Allied Terms of Peace* registered a strong protest against the loss of Danzig. It read:

The cession of the purely German Hanseatic town of Danzig and of its surroundings which are likewise purely German, as demanded in Articles 100 to 108, is in direct opposition to all assurances given in the declarations of President Wilson. . . . Even the Poles do not seriously deny that Danzig has always been German in character. The attempt to make Danzig a free city, and to surrender its means of communication and the representation of its rights abroad to the Polish State, would lead to violent opposition and to a continuous state of war in the East. And withal, economic measures have been taken to make all communication between Danzig and Germany extremely difficult—evidently with the purpose of making this purely German territory Polish in the course of time by means of economic pressure. The German Government, therefore, must reject the intended national oppression of Danzig, and must demand that Danzig and its environs remain within the German Empire.

The *Comments* then pointed to a statement in Wilson's speech of January 22, 1917, where he had spoken in general terms of "the neutralization of direct rights of way" as a means of access to the sea, claiming that it had that speech in mind when it accepted the Thirteenth Point.

In accepting point 13 of President Wilson's address of January 8, 1918, Germany agreed that the Polish State to be erected "should be assured a free and secure access to the sea." The German Government has done so in recognition of the address which President Wilson delivered to the Senate on January 22, 1917, when he said: "So far as practicable, moreover, every great people now struggling toward a full development of its resources and of its powers should be assured a direct outlet to the great highways of the sea. Where this cannot be done by the cession of territory, it can no doubt be done by the neutralization of direct rights of way under the general guarantee which will assure peace itself. With a right comity of arrangement no nation need be shut away from free access to the open paths of the world's commerce."

Germany offered to make the ports of Memel, Königsberg, and Danzig free ports, to grant Poland extensive rights in them, and to conclude a special agreement concerning Poland's use of railroads leading to these ports:

In accordance with the above principles and in order to fulfill the obligation accepted by the German Government, *viz.* to give Poland a free and secure access to the sea, the German Government is ready to make the ports of Memel, Königsberg, and Danzig free ports and to grant in these ports far-reaching rights to Poland The German Government, moreover, is ready to conclude a special agreement with the Polish State regarding the use of the railways between Poland and other territories of the former Russian Empire on the one hand and the ports of Memel, Königsberg, and Danzig on the other.

The above has been agreed to on the assumption that, on the Polish railways and the railways under Polish influence, Germany shall also be granted, in a like connexion, reciprocity

Germany further offered to Poland free use of all navigable waterways leading from Poland, Lithuania, and Latvia through East and West Prussia to the Baltic.

Furthermore, the German Government would be prepared to place at the disposal of the Poles for free use and for free transit, giving far-reaching securities, all navigable waterways leading from Poland, Lithuania, and Livonia through East and West Prussia to the Baltic. Reciprocity on the part of the Poles is likewise assumed as a foregone conclusion.⁷⁰

The *Reply* of the Allied and Associated Powers rejected the German protests and counter-proposals:⁷¹

The town of Danzig is to be constituted a free city, so that the inhabitants will be autonomous and not come under Polish rule and will form no part of the Polish State. Poland will be given certain economic rights in Danzig and the city itself has been severed from Germany, because in no other way was it possible to provide for that "free and secure access to the sea" which Germany has promised to concede.

The German note declares that the German Government "must reject the proposed rape of Danzig and must insist that Danzig and its environs be left to the German Empire." The use of this language seems to show some want of appreciation of the true situation. The proposed settlement for Danzig has been drawn up with the most scrupulous care and will preserve the character which Danzig held during many centuries and, indeed, until forcibly and contrary to the will of the inhabitants it was annexed to the Prussian State. The population of Danzig is and has for long been predominantly German; just for this reason it is not proposed to incorporate it in Poland. But Danzig, when a Hansa city, like many other Hansa cities, lay outside the political frontiers of Germany, and in

⁷⁰ Text in Almâ Luckau, *The German Delegation at the Paris Peace Conference* (New York, 1941), pp. 318-19, 336-37.

⁷¹ *Ibid.*, pp. 415-16

union with Poland enjoyed a large measure of local independence and great commercial prosperity. It will now be replaced in a position similar to that which it held for so many centuries. The economic interests of Danzig and Poland are identical. For Danzig as the great port of the valley of the Vistula, the most intimate connection with Poland is essential. The annexation of West Prussia, including Danzig, to Germany, deprived Poland of that direct access to the sea which was hers by right. The Allied and Associated Powers propose that this direct access shall be restored. It is not enough that Poland should be allowed the use of German ports; the coast, short as it is, which is Polish, must be restored to her. Poland claims, and justly claims that the control and development of the port which is her sole opening to the sea shall be in her hands and that the communications between it and Poland shall not be subjected to any foreign control, so that in this, one of the most important aspects of national life, Poland should be put on an equality with the other states of Europe.

Prior to the dispatch of the *Reply*, President Wilson had called in the members and technical advisers of the American Peace Commission, asking their reactions to the German statements. The discussion dealt mostly with Upper Silesia, Danzig receiving but bare mention. Professor Lord expressed strongly affirmative opinions with regard to the settlement as a whole, and no dissenting voice was heard.⁷²

The Poles made it clear that they were not satisfied, going to the extent of quoting Bismarck on the "necessity of the possession of Gdansk by an independent Poland."⁷³

COMMENTS IN RETROSPECT

A few remarks on both the German *Comments* and the German *Reply* are in place. Germany's case was strong when pointing out that the cession of German Danzig against the wishes of her inhabitants was in violation of Wilson's principle of self-determination of a people; but it was rather weak in the provisions offered toward establishing Poland's access to the sea, an obligation undertaken when Germany accepted Wilson's Fourteen Points.

The German reference to Wilson's speech of January 22, 1917, was not legally pertinent, as only Wilson's Fourteen Points of January 8, 1918, and the principles⁷⁴ laid down in his subsequent speeches

⁷² Baker, *Woodrow Wilson and World Settlement*, III, 449-57.

⁷³ American Commission to Negotiate Peace. Confidential, Secret, *S-H Bulletin* No. 336, Supplement. June 3, 1919, Additional Remarks of the Polish Delegation on the Observations of the German Delegation on the Conditions of Peace.

⁷⁴ Text of the pertinent documents in Luckau, *The German Delegation at the Paris Peace Conference*, pp. 3-29; see Seymour, *House Papers*, IV, 148.

form a part of the pre-Armistice agreement. In offering to establish free ports in Memel, Königsberg, and Danzig and to grant Poland extensive rights in these ports, the *Comments* constituted a rather indefinite promise and, in addition, wished to make the matter the subject of special negotiations with interested parties only, without any international guarantee.⁷⁵ The proposed free use by Poland of German navigable waterways was subject to the same criticism. Inasmuch as the Germans had known that strong claims on Danzig were pending at the Paris Peace Conference,⁷⁶ they might have been better prepared to meet them by more definite proposals of their own.

The Allied *Reply* flatly rejected the German proposals *in toto*. While the note readily recalled that in 1793 Danzig was annexed by Prussia "forcibly and contrary to the will of its inhabitants," it ignored the fact that the Allied establishment of a Free City was to be imposed on Danzig in the same way. The student of history further questions the validity of the claim that the Treaty of Versailles puts Danzig "in a position similar to that which it held for so many centuries," for the differences in her position in former times and after 1918 were marked as well as significant.

Poland is further said to claim justly that the "control and development of the port which is her sole opening to the sea shall be in her hands"; yet in the very next year the Allied Powers themselves refused to give Poland more than an equal share with the Free City in the control and development of the harbor of Danzig.

As the next Peace Conference will be plagued by the same problem of providing access to the sea for one nation through the territory and ports of another, the experience of the Paris peacemakers in establishing the Free City of Danzig should prove of great value, as should the record of her two decades of existence, 1920 to 1939.

⁷⁵ As pointed out in the report on the German *Comments* by the Commission on Ports, Waterways, and Railways, Miller, *Diary*, XIX, 121.

⁷⁶ "The Poles and the French are exerting all their strength to bring about the annexation to Poland of a connected part of the province of West Prussia, including the city of Danzig. The opposing opinion, namely, that it will suffice if the Poles are given the guarantee of access to the sea by the internationalization of rivers, railways and harbors, seems to be held by the English in particular. We may assume that the Americans will try to bring about such a solution. The latest information mentions a compromise, on the basis of the internationalization of the whole city of Danzig, and not merely the creation of a more or less extended free harbor zone. We have no reliable information which would enable us to judge the methods to be used by the Allies in the process of internationalization" "Minutes of the Committee for Peace Negotiations, April 15, 1919," in Luckau, *The German Delegation at the Paris Peace Conference*, pp. 182-86.

FREE CITY GOVERNMENT, POLITICS, AND FINANCE

When the Treaty of Versailles went into force on January 10, 1920, a new historical period began for Danzig. Internationally, her existence as a Free City for the next twenty years reflected the vicissitudes of world politics—the downfall of the German Empire, the rise of the new Poland, the promising beginning and ultimate failure of the League of Nations, and the paralytic inability of the nations to recognize in time the deadly menace of the rising Nazi power. Even domestically, her constitution, laws, and political developments showed the dominating influence of international factors, whether they accrued from Danzig's intimate relations with Poland, from her close connection with the League of Nations, or from her firm endeavor not to cut the ties that bound her to the fatherland

THE PROVISIONS OF THE TREATY OF VERSAILLES

Articles 100 to 108¹ of the Treaty of Peace dealt in brief and somewhat general terms with the future Free City of Danzig, tying up her existence with both Poland and the League of Nations. Germany renounced in favor of the Principal Allied and Associated Powers her rights and titles to the territory whose frontiers were to be fixed on the spot by an Allied Commission of five members, including one appointed by Germany and one by Poland.² The Allies, in turn, undertook the establishment of the town of Danzig and the surrounding territory as a Free City to be placed under the protection of the League of Nations.³

¹ Full text in Appendix A, pp. 323–24

² The commission, headed by General Dupont, made only minor changes in the boundaries; for details, see Foerster in Th. Rudolph (ed.), *Die Entstehung der Freien Stadt Danzig* (Danzig, 1930), pp. 29–31. Hereafter cited Th. Rudolph, *Die Entstehung*

³ The Treaty subjected the Principal Powers to certain definite provisions in regard to the future of Danzig, while it left them extensive freedom of action in regard to Memel (Article 99). The tasks imposed on the Principal Powers and the League of Nations, respectively, are best summarized in Viscount Ishii's Report to the League Council, November 17, 1920, *League of Nations Council Minutes, Minutes of the Thirteenth Session*, XII–XIII, 7, 69 ff., or League of Nations document 20-48-98 (I), pp. 1–6; see also Gerhard P. Pink, *The Conference of Ambassadors, Paris, 1920–1931* (Geneva, 1942), p. 54, and Herbert Matschke, *Die Grundlagen des internationalen Statuts von Danzig* (doctoral dissertation, University of Berlin), 1936, pp. 23–34.

A constitution was to be drawn up by the duly appointed representatives of the Free City, in agreement with a High Commissioner to be appointed by the League of Nations; and this document was to be placed under the guaranty of the League. The High Commissioner, residing at Danzig, was to be entrusted with the duty of dealing in the first instance with differences arising between Poland and the Free City in regard to this treaty or any arrangements or agreements made under it.

The Allies further undertook to negotiate a treaty between Poland and the Free City with the object of placing Danzig within the Polish customs frontiers and insuring to Poland the free and unrestricted use of the port, including the control of the Vistula, and the entire railway system, as well as the postal, telegraphic, and telephonic communications between the port of Danzig and Poland. Poland was to have the right to develop and improve these facilities and to lease or purchase property for these purposes. Discrimination by Danzig against Polish citizens or persons of Polish origin or speech was to be forbidden, while Poland was to undertake the conduct of the foreign relations of the Free City as well as the diplomatic protection of its citizens in foreign countries. The German residents of Danzig were to lose their German citizenship and become nationals of Danzig within a prescribed time unless they left for Germany. All property belonging to the German Empire or any German state was to pass to the Allied Powers for transfer to the Free City or to Poland, whichever they might consider equitable. Danzig was to bear her share of the financial liabilities of the Reich and of Prussia as fixed by the Treaty of Versailles.

THE ESTABLISHMENT OF THE FREE CITY

When the Treaty of Versailles came into force on January 10, 1920, the sovereignty over Danzig passed into the hands of the Principal Allied and Associated Powers.⁴ The existing German administrative and judicial authorities continued to function, but they functioned on a temporary and strictly territorial basis⁵ until the adminis-

⁴ See the Simson-LeRond agreement of January 9, 1920, between Germany and the Principal Powers, concerning the cession of the Danzig and Memel territories, text in Hermann Lewinski and Richard Wagner (eds.), *Danziger Staats- und Völkerrecht* (Danzig, 1927), pp. 194-95; for discussion see Foerster in Th. Rudolph, *Die Entstehung . . .*, pp. 25-29, and H. Matschke, *op. cit.*, pp. 20-21. Since the United States had not ratified the Treaty of Versailles, a complicated legal situation resulted; discussed in Karl-Ludwig Schroder, *Die völkerrechtliche Stellung Danzigs* (Breslau, 1927), pp. 8-12.

⁵ Regierungspräsident Foerster headed the German government authorities; for one month he also acted as the representative of the Allied governments at Sir

tration was taken over on February 13 by Sir Reginald Tower, the representative of the Principal Allied Powers, who entered the city at the head of English battalions one hour after the last German troops had left the city.⁶ Thereafter Danzig was under the rule of the Principal Powers, who governed her through the Conference of Ambassadors,⁷ until on November 15, 1920, she was constituted a Free City. English and French troops⁸ occupied Danzig during the same period. Sir Reginald Tower appointed a Council of State, with the former Burgomaster Heinrich Sahm at its head,⁹ to aid him in his work of administration.

Meanwhile, the Council of the League of Nations authorized elections for a Constitutional Assembly in Danzig. The election laws, prepared by the Council of State, provided for general, direct, equal, and secret suffrage on a proportional basis.¹⁰ The Constitutional Assembly voted acceptance of the draft constitution¹¹ on August 11, the anniversary of the Weimar Constitution. The High Commissioner¹² then submitted the document to Geneva for approval. In the meantime, representatives of Danzig and Poland were at work upon the Convention, provided for in Article 104 of the Treaty of Versailles.

By resolution, the Conference of Ambassadors declared the Free City of Danzig established as of November 15, 1920,¹³ and the

Reginald Tower's request; Foerster in Th. Rudolph, *Die Entstehung*, p. 28; H. Matschke, *op cit.*, pp. 19-21

⁶ K.-L. Schröder, *op cit.*, p. 13

⁷ G. P. Pink, *The Conference of Ambassadors*, pp. 53-54.

⁸ Under General Sir Richard Haking, commander-in-chief of the Allied troops of occupation for Danzig, Memel, and the neighboring plebiscite territories. Foerster in Th. Rudolph, *Die Entstehung* . . . , p. 29

⁹ L. A. Hawranke, *Verfassungsrecht der Freien Stadt Danzig* (Danzig, 1931), p. 4. The division of power between the High Commissioner and the Council of State is described in Wilhelm Schmoeger, *Die Rechtssetzung nach der Verfassung der Freien Stadt Danzig* (Danzig, 1930), p. 4.

¹⁰ L. A. Hawranke, *op cit.*, p. 4; H. Matschke, *Die Grundlagen des internationalen Statuts* . . . , pp. 43-44

¹¹ See Otto Loening, *Die Verfassung der Freien Stadt Danzig* (Danzig, 1922), pp. 3-5 (Dr. Loening was the Reporter of the drafting committee of the Constitutional Assembly); see also L. A. Hawranke, *op cit.*, pp. 5-6

¹² Sir Reginald Tower had been appointed provisional High Commissioner of the League of Nations, as well as representative of the Principal Powers; in the former capacity he represented the League and participated in the making of the constitution, in the latter, he was the Allied Administrator. See H. Matschke, *op cit.*, p. 43, and G. P. Pink, *The Conference of Ambassadors*, pp. 53-57, 68.

¹³ Text of the resolution, dated October 27, 1920, in *Grumbuch*, Ia (Danzig), pp. 154-55. See H. Matschke, *op cit.*, pp. 36-41. For a discussion of the League resolution see below, p. 77.

League Council placed it under the protection of the League of Nations. On the same date, the Danzig-Polish convention, known as the Treaty of Paris, went into effect, regulating the respective rights and obligations of the two governments.¹⁴

At a meeting of the Constitutional Assembly on November 15, 1920, Sir Reginald's deputy, Lieutenant Colonel Strutt, solemnly pronounced the city of Danzig and the surrounding territory a Free City, and announced the end of his work as Allied Administrator. By a decree of the same day he determined that the enlarged State Council should function as the provisional state government and the Constitutional Assembly as the new legislature. With that decree, the Allied condominium over Danzig came to an end.¹⁵

THE CONSTITUTION OF THE FREE CITY

The Constitution of the Free City of Danzig was the only constitution of an international state which was formally approved by the League of Nations, guaranteed by the same body, and unamendable without its consent. In addition, it had several other features that help to put it and the government of the Free City in a class by themselves. The Constitution was, therefore, a remarkable document from the point of view of both comparative constitutional law and international law and organization.

The Constitution of Danzig¹⁶ was modeled after the constitution of the city-state of Lübeck, which, in turn, showed the same democratic spirit as the constitution of the German Republic.¹⁷ Like the Weimar document, it was divided into two parts, one dealing with the Organization of the State (Articles 1-70) and the other with the fundamental Rights and Duties (Articles 71-115) which governed the direction and determined the scope of legislation, the administration of justice, and the conduct of public affairs. A final Article 116 specifically revoked the Weimar Constitution for the territory of the Free City. Its bill of rights was explicit in its forty-five articles, providing for liberty of person, freedom of movement,

¹⁴ See pp. 77-114, below.

¹⁵ H. Matschke, *Grundlagen des internationalen Statuts* . . . , p. 36.

¹⁶ O. Loening, *Die Verfassung der Freien Stadt Danzig*, p. 3; also his *Danzig, Sein Verhältnis zu Polen und seine Verfassung* (Berlin, 1921), p. 29.

¹⁷ The text of the three constitutions is found in Otto Ruthenberg, *Verfassungsgesetze des Deutschen Reichs und der deutschen Länder* (Berlin, 1926). For the text of the Danzig Constitution as amended in 1930 and its English translation, see *Constitution of the Free City of Danzig*, Extract No. 58 of the *Official Journal* (December 1930); for the original text see *Official Journal* (July 1922). Commentary is by a member of the Danzig Supreme Court, Hans Reiss, *Die Verfassung der Freien Stadt Danzig* . . . (Danzig, 1931). See also Hawranke, *op. cit.*

and the rights of free speech and of assembly. Complete freedom of creed and conscience was guaranteed, as well as freedom of the arts and sciences.

The provisions for the structure of the Danzig government were similar to those of the Free and Hanseatic Towns of Bremen, Hamburg, and, especially, Lübeck. Paragraph after paragraph, and article after article were taken over literally from corresponding passages in the Constitutions of Weimar and of Lübeck (1920). It is significant that the Danzig Constitution did not have a section parallel to the famous Article 48 of the Weimar Constitution, which authorized emergency rule with temporary abolition of the bill of rights.

Under its organic law, the city of Danzig and the attached territory formed a Free State under the name of the Free City of Danzig. It had its own arms of state,¹⁸ and a state and commercial flag; the sovereign power was vested in the people; the official language was German, but the Polish-speaking portion of the population was guaranteed free racial development, particularly in regard to the use of its mother tongue in the schools, in internal administration, and in the administration of law (Articles 1-4).¹⁹

The Popular Assembly (*Volkstag*) consisted of seventy-two²⁰ deputies, elected for four years by universal, equal, direct, and secret suffrage by all citizens of either sex over twenty years of age, on the basis of proportional representation. The Assembly might be dissolved before the end of its term of office by its own decision or by a popular referendum.²¹ A referendum might also be held on the demand of the Senate. In the event of a dissolution, new elections were to take place within two months. Other provisions dealing with the rights and duties of the Assembly (Articles 6-24) were similar to the provisions of the Weimar Constitution dealing with the Reichstag.

The Senate of the Free City deserves special mention because its functions were most important. It consisted of a president, a vice-president, and ten senators,²² all elected by the Assembly for an indefinite period and, jointly or severally, dependent on its confidence. The meetings of the Senate were not public. Official documents were

¹⁸ The old coat of arms of Danzig, as established in 1453 (see title page).

¹⁹ For the pertinent laws, see Reiss, *op. cit.*, pp. 5-8.

²⁰ Before 1930, the number had been 120. The decrease in size was due primarily to a desire for economy. The Hamburg parliament had 160 deputies, Bremen 120, and Lübeck 80. H. Reiss, *op. cit.*, p. 11.

²¹ Before the 1930 amendments, no dissolution was possible.

²² Six of these senators received no salary, serving as a civic duty.

signed in the name of the Free City by the president or the vice-president and by one other member of the Senate.

The Free City had no president as its head. The president of the Senate was only *primus inter pares*.

All laws had to receive the approval of both houses. In case of disagreement, the Senate had only a suspensive veto: it had either to give in to the Assembly or to submit the bill to a popular referendum.

Certain aspects of the administration of justice in the Free City were of special interest and significance. In order to assure that judges were nonpolitical, their election for life was entrusted to a special committee of eleven members, consisting of the president and one member of the Senate, the three presiding officers of the Assembly, the president of the Supreme Court, three judges elected by all the judges and two lawyers elected by all the local attorneys (Article 64).²³

The Supreme Court (*Obergericht*) decided on the validity of contested elections to the Assembly, and on impeachment cases against members of the Senate for infringements of the Constitution or of a law (Article 32).

It decided the constitutionality of laws, a task originally assumed by the court and then specifically conferred on it by law. A two-thirds majority was required to declare a law void. Twenty-one laws were attacked on constitutional grounds between 1925 and 1935, of which seven were declared unconstitutional. Four advisory opinions were given at the Senate's request.²⁴

For purposes of local government the city was divided into five areas, two urban districts (Danzig and the famous sea resort and gambling place, Zoppot) and three rural districts. The municipality of Danzig was by far the most important; it contained 60 per cent of the population and was administered by its own city council, chosen by the Assembly. It did not, however, enjoy much self-government. The rural districts were further subdivided into towns and villages, enjoying certain powers of self-government. They were sparsely inhabited and of minor importance.

²³ This provision is not in the Weimar Constitution, but is adopted from the 1920 constitution of Bremen, Hans Reiss, *Die Verfassung der Freien Stadt Danzig* . . . , p. 106; see also O. Loening, *Staatsrechtliche Betrachtungen zu einer zu künftigen Verfassung von Danzig* (Danzig, 1919), pp. 40-42.

²⁴ H. Reiss, "Das Plenum des Obergerichts als Verfassungsgerichtshof," *Danziger Juristenzeitung*, June 15, 1936, pp. 57-58. According to O. Loening, *Danzig, Sein Verhältnis zu Polen und seine Verfassung*, p. 30, the Constitutional Assembly intended the Supreme Court to have this power, with specific reference to United States practice.

THE FIRST AMENDMENTS

Amendments to the Constitution had to have the support of a two-thirds majority in the Assembly, or a majority of the electorate in case of adoption by referendum. Amendments could come into force only after they had been approved by the League of Nations.

The Constitution of Danzig, like its American counterpart, began its existence by being amended. Only, in contrast to the American experience, the Danzig Constitution was amended on insistence from the outside, that is, from the League of Nations. Strictly speaking, it was not the Constitution until it was modified in accordance with the Geneva demands.

The power of the League over Danzig's organic law derived from the fact that the Treaty of Versailles stipulated that the Free City was to be placed under the *protection* of the League and its Constitution under the *guarantee* of that same international body.

Before the League was willing to guarantee the Constitution it took a close look at the draft proposal prepared by the Danzigers in agreement with the High Commissioner. Through the sharp eyes of its Japanese representative, Viscount Ishii, it scrutinized the provisions and assured itself against buying a pig in a poke. Agreeing to his interpretation that the League guaranty implied (1) that the document had to obtain the approval of the League, (2) that it could be changed only with the League's permission, and (3) that the constitutional life of the Free City must always be in accordance with the terms of its Constitution, the Council accepted his resolution and asked the Constituent Assembly of Danzig to revise²⁵ the Constitution within three weeks as follows:

The name of the new state should be "The Free City of Danzig," rather than "The Free and Hanseatic City of Danzig," in order to conform exactly to the nomenclature of the Treaty of Versailles.²⁶

The provisions establishing German as the official language and guaranteeing to the Polish-speaking part of the population free national development, particularly in regard to the use of its mother tongue in the schools, internal administration, and legal proceedings, were to be merged into one article in order to establish that the provisions were of equal importance.

²⁵ Some Danzig jurists denied that the League was entitled to demand changes; the League's right is upheld by O. Loening, *Danzig, Sein Verhältniss zu Polen und seine Verfassung*, p. 28.

²⁶ Possibly the name smacked too much of the official designation of the city republics of Hamburg, Bremen, and Lubeck, which were constituent parts of the German Reich.

A clause was to be inserted in the Constitution to the effect that certain provisions concerning the postal, telegraph, and telephone services of the Free City and her foreign relations should in no way affect the provisions of the Treaty of Versailles.

The Constitution was to state expressly that amendments could not come into force without the consent of the League; also that the government of Danzig was to submit to the League within six months the principles of a draft law concerning Danzig citizenship. The High Commissioner stated in this connection that it was to the interest of the League of Nations that the rights of citizens of Danzig should not be extended or restricted in an improper way.

Another clause should state that the League had the right to require authentic information at any time from the Danzig government on the public affairs of Danzig, and that effect should always be given to such request

The revised Constitution should also forbid, except with the special consent of the League, the use of the Free City as a military or naval base, the erection of fortifications, and the manufacture in its territory of munitions or war materials.²⁷

Beginning with November 15, 1920, the Constitution, although it was still in its provisional form, served as the *de facto* foundation for the government of the Free City,²⁸ and on December 6, the Constitutional Assembly pronounced its new character and status as the first Popular Assembly (*Volkstag*), in accordance with Article 117.²⁹ Within a short time it enacted the changes in the Constitution demanded by the League Council.³⁰

Another constitutional problem was pointed out to the League by the High Commissioner. The Constitution (of that date) provided for a fixed twelve-year term for the Senate, resulting in lack of responsibility of the highest executive authority in the state to the popularly elected Assembly. The League Council demanded, therefore, a new amendment, limiting the term of senators to four years, adding significantly that the League "would always be able to call upon the Free City to introduce into the Constitution such subsequent amendments as might be judged necessary or advisable in the light of experience."³¹

²⁷ *Free City of Danzig, Report by His Excellency Viscount Ishii* and Resolution by the Council on November 17, 1920, League Document 20-48-98 (I) (hereafter cited as *Ishii Report*); also League of Nations document, 20/19/17, Procès-verbal of the Eleventh Session of the Council, Annex 130 (a), p. 76.

²⁸ H. Reiss, *Die Verfassung der Freien Stadt Danzig . . .*, pp. xxxvii, 203-5

²⁹ *Ibid.*, pp. xxxvii, 208.

³⁰ *Ibid.*, p. xxxvii.

³¹ *Official Journal*, March-April 1921, pp. 162-63; September 1921, pp. 665-66.

Since the amendment in question received only a simple majority vote in the Assembly, instead of the two-thirds required under the Constitution, the High Commissioner merely declared that since the Constitution had not yet come into full force, the Assembly had, as far as the adoption of amendments was concerned, only the status of the Constitutional Assembly. As such, it needed only a simple majority vote for amendments, and the change required by the League had, in that case, been enacted. On May 11, 1922—or almost two years after the vote of adoption of August 11—the High Commissioner proclaimed the approval of the Constitution and its coming into force. Two days later the Council formally put the Constitution under the guaranty of the League of Nations.³²

The first amendment proposed by Danzig rather than by the League dealt with the Valorization of Claims, a matter concerning compensation in respect to currency depreciation. A second amendment, which followed in 1930, reduced the size of the Assembly, provided for its possible dissolution before the end of its term, decreased the number of senators, and provided for their parliamentary responsibility.³³ It resulted in further democratization of governmental procedures in the Free City. Under this amendment the Assembly was dissolved in November 1930, May 1933, and February 1935—a frequency which did not contribute to stable government in Danzig.

RELATIONS WITH THE GERMAN GOVERNMENT

The relationship of the government of the Free City to Germany was always close and usually cordial, regardless of the fact that the Center and Leftist parties might be in control in Germany and the Rightists in Danzig. The Danzigers considered themselves Germans, and nobody in the Fatherland thought of them as foreigners or expected them to be separated from the Reich for all eternity. Officially the two governments had to communicate with each other in diplomatic matters via Warsaw, as Poland was entrusted by the Treaty of Versailles with the conduct of the foreign relations of the Free City. Danzig affairs were therefore handled in Berlin in a division of the Foreign Office, which was represented in Danzig by a consul general. Significantly the post was occupied for a while by Baron von Thermann, who had been considered able enough to be appointed Germany's first postwar representative, as *chargé d'affaires*.

³² See Foster MS, "The Free City of Danzig," pp. 78-79; *Official Journal*, June 1922, pp. 532, 668-69. For the full text of the Constitution as approved by the League at that time, see *Official Journal, Special Supplement No 7*, July 1922.

³³ H. Reiss, *op. cit.*, pp xxxviii-xxxix.

fares, in Washington and who later became the ambassador of the Third Reich to the important Argentine Republic.

While official relationships between the Free City and Germany were kept in line with the treaty requirements, there was nothing, of course, in them to prevent leading Danzig officials from stopping over in Berlin for informal talks and consultations while on the way to the League Council. Undoubtedly in Berlin were staged important exhibitions and conferences of professional and other organizations that attracted Danzig officials, not to speak of cultural activities and pleasures of the German metropolitan center welcome to men who felt somewhat isolated on the other side of the Polish Corridor

REICH GERMANS AS DANZIG OFFICIALS³⁴

The Poles objected to the presence and prominence of Reich Germans among the officials of the Free City. They objected also to the fact that Danzig officials were able to get government positions in Germany. When the first president of the Senate, Dr. Heinrich Sahn, resigned from his post in Danzig he was made mayor of Berlin—the capital and most important city of the Reich. Later he became German minister to Sweden. Dr. Otto Loening, former vice-president of the Constituent Assembly and a judge in the Free City, later became a judge in Berlin. Still other Danzig officials received appointments in the Reich. One young official in the Department of Foreign Affairs in Danzig, to the knowledge of the present writer, became an official in the German Foreign Office. Both the first and the second Chief Justice of the Free City were former members of the German judiciary; and the president of the Bank of Danzig and the leading Danzig member of the Harbor Board were not natives of Danzig; nor was Dr. Hermann Rauschning, the first National Socialist president of the Senate. In 1932 an official from the German Ministry of Finance was appointed Director of Customs in Danzig. Other officials were freely exchanged back and forth between Danzig and the Reich, a situation facilitated by the provisions in both Danzig and German law³⁵ for the acquisition of citizenship by virtue of

³⁴ For further data on this topic, see Morrow, *Peace Settlement*, pp. 160–65.

³⁵ Under Articles 2–5 of the Warsaw Agreement between Danzig and Poland of November 9, 1920, and the Naturalization Law of May 30, 1922, in execution of Article 72 of the Constitution. The principles of this law were approved by the League Council; see below, "The Polish Minority Rights," pp. 265–66. For the text of the law, see Richard W. Flourney, Jr., and Manley O. Hudson, *A Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties* (London, 1929), pp. 209–12. See also Georg Crusen, *Der Pariser Vertrag vom 9. November 1920*, pp. 500–502. The only known copy of this book is in the Hoover Library on War, Revolution, and Peace (see p. xiii above). Late references to the book have been added in brackets.

appointment as a government official. (It is recalled that Hitler acquired his citizenship by being appointed an official in one of the small German states.)

The answer of the Danzigers to the strong Polish complaints was usually made along two lines. In the first place, they pointed out that they had been detached from the Fatherland against their wishes and that if they had to be separated by political boundaries they at least wished to continue their cultural and other relationships. They considered it natural that they should run their little state and their communities according to the German model to which they had been accustomed for generations and which, in addition, suited their patriotic tastes. Obviously, officials trained and experienced in German ways of government administration would fill the order. In addition, Danzigers pointed to the obvious fact that their state did not have the university and other facilities to train government officials and that the government would face unsurmountable obstacles if it confined itself in its recruiting activities to the 400,000 people living in the Free City. It was also pointed out that able and ambitious young Danzigers would not wish to serve their home government in any capacity if it meant that their careers would necessarily be confined to it.

At the same time, it was undoubtedly true that the free flow of government officials to and from Germany served to retard, if not make impossible, the steady development of a point of view of government that represented the Free City as an independent state and to promote one that considered Danzig part of the Reich regardless of political boundaries. Seen from that angle, the Poles had a cause for complaint³⁶ even though it is difficult to see where the Free City could have secured trained officials if not from Germany. In addition, the constant Polish endeavor to deny or whittle down the international statehood of the Free City only made it look around for support and lean toward the Reich, of which it had been a part.

POLITICAL PARTIES

The political life of the Free City followed closely the pattern of partisan politics in Germany. The intimate relationship of Danzig

³⁶ The extreme situation existed under the Nazi regime when the most powerful person in the Free City was not the head of the Danzig government but the district leader (*Gauleiter*) of the Nazi party, a Bavarian by the name of Albert Forster who was appointed by Hitler, was answerable to him, and continued as a member of the German Reichstag and the Staatsrat while running the affairs of the Free City. When the Nazis ran election campaigns in the Free City their chief attractions were Nazi "big guns" from the Reich such as Hess, Goebbels, Goering, and Streicher, who were, of course, not citizens of the Free City.

to Poland, however, brought a new and important factor into the political picture, as the one or the other party stressed a recalcitrant or more friendly attitude toward the Slavic neighbor. In general, the coalition governments consisting of the Center, the Liberals, and the Social Democrats were more conciliatory toward Poland than the Conservatives and the Nationalists.³⁷

As Foster points out, the citizens of Danzig reacted to the political barometer of the Reich as sensitively as if Danzig had still been within its frontiers.³⁸ The political parties of the Free City, except, of course, the Polish party, were miniatures of those existing in Germany. They used the same names, pronounced the same platforms, and drew their support from the same types and classes of people.

There were six parties of major importance, their role, of course, subject to changes in the political situation. They included the conservative Nationalist party, which was the leading coalition party from 1920 to 1927 and from 1931 to 1933. It furnished the first two presidents of the Senate: Dr. Heinrich Sahm (1920 to 1931; after 1927 he was an "Independent") and Dr. Ernst Ziehm (1931 to 1933). The National Socialists, who built up their strength parallel to developments in Germany, named Dr. Hermann Rauschning as president of the Senate in June 1933 but forced his retirement in November 1934 because of his relative moderation. He was succeeded in office by a more extreme Nazi, Herr Arthur Greiser. The Catholic Center party was led by the popular Prelate Sawatzki and occupied a strategic position in the Assembly, where its support or opposition were often decisive. As in Germany, it lasted longer than any other non-Nazi party, existing in the Free City until 1937, when it was formally dissolved. The owner of its main newspaper was Senator Keiser-Wiercinsky, who left the Center to go over to the Nazis, for which his former friends labeled—or libeled—him "Der kleine Papen." The Social Democratic party was traditionally more friendly toward Poland than the other groups. In Julius Gehl they furnished the president of the Assembly in 1923 and 1930 to 1931; from 1928 to 1930 they were the leading coalition party. The Communists were also regularly represented in the Assembly. The Polish party alone was not copied from German life. In line with its name,

³⁷ According to Morrow, *Peace Settlement*, p. 167, the Social Democrats declared after their resignation in 1930 that their conciliatory policy had met no more favorable response from Poland than the aggressive policy of their Nationalist successors in office.

³⁸ See his discussion of "Political Parties in the Free City," in "The Free City of Danzig" (Foster MS), pp. 310-43.

it pursued definitely Polish aims which on important occasions, such as the Westerplatte affair, clashed with those of the other parties. Various other political groups won seats in the various elections but they did not leave a major imprint on the political situation.

Economic adversity in the early post-World War I years, induced by the loss of the war, reparation payments, and inflation, with its hectic climax in 1923, and likewise the various political factors produced effects in the Free City similar to those in the Reich.³⁹ Like Germany, Danzig enjoyed an increasing prosperity during the late 1920's; and, after a deepening depression at the turn of the decade, she too leaned heavily toward Nazism.

The Hitler vote in Danzig in May 1933 was 50 per cent—higher than in Germany as a whole, where it had been only 43.9 per cent of the total vote on March 5 of the same year. The Danzig election took place two months later than that in the Reich, at a time when more people were ready to climb on the bandwagon. Being on the periphery of *Deutschtum*, Danzig was also more ready to respond to nationalistic phrases. At the same time, it should be noted that the Nazi vote in the neighboring provinces of Pomerania and East Prussia was even higher than in Danzig—56 per cent as compared with the 30 to 35 per cent of Catholic districts in the Rhine and Ruhr regions. The same trend was apparent in the Free City, where about one-third of the population was Catholic, as in Germany—Protestant and rural areas favored Nazism more than Catholic and urban districts.⁴⁰

While Hitler rolled up his ivory-pure majorities in the Reich and suppressed all opposition ruthlessly, the Nazis in Danzig were less successful in applying steamroller methods. It took them years to flatten out completely the democratic opposition in the Free City—a fact which, in spite of its final disastrous outcome, constitutes a mark of honor to German liberal elements, who put up a valiant if losing fight.⁴¹

THE DANZIG CURRENCY

During the first few years of its existence, the Free City used German currency, so that when the Reich found itself in the throes of inflation the residents of Danzig suffered with her. As the situa-

³⁹ For election statistics see Foster, MS cited, pp. 319–20.

⁴⁰ See John Brown Mason, *Hitler's First Foes, A Study in Religion and Politics* (Minneapolis, 1936), especially chapter ii.

⁴¹ See Hans L. Leonhardt, *Nazi Conquest of Danzig* (Chicago, 1942), and chapter i, above.

tion grew serious in the fall of 1921, the League of Nations began to step in with expert advice and assistance. In compliance with the recommendations of a Sub-Committee of the League, a Bank of Issue, known as the Bank von Danzig, was established on February 5, 1924, with a paid-up capital of 300,000 pounds.⁴² It began operations on March 17 of the same year. A group of Polish banks had the right to subscribe up to 30 per cent of the Bank's capital and, like other shareholders, to be represented on the Board of Directors. Non-Polish foreign banks were permitted to subscribe up to 15 per cent of the total capital.⁴³ The Bank enjoyed a rediscount credit with the Bank of England of 200,000 English pounds.⁴⁴

The new Danzig currency was called the gulden, divided into 100 pfennigs. Its value was set at 25 gulden to the English pound and it became the only legal tender in the territory of the Free City. The details of coinage were prescribed by law, as were the regulations governing the issue of banknotes. Coins included 25-gulden gold-pieces and silver, nickel, and copper coins of smaller denominations.⁴⁵ The five-pfennig pieces made of nickel became popularly known as "flounders."

When Great Britain went off the gold standard in 1931, Danzig did not follow her example, in spite of the close association of the two currencies. Her wages and prices consequently remained comparatively high, while her trade suffered. Heavy expenditures of the Nazi regime for public works added to the existing difficulties, and by the early summer of 1935 drastic restrictions and economies were introduced by the Danzig government, together with a devaluation of the gulden to 57.63 per cent of its gold parity.⁴⁶

In its Article 36 the Treaty of Paris had foreseen a possible unification of the Danzig and Polish monetary systems, and ref-

⁴² The Sub-Committee, consisting of M. Avenol and M. Jansen, had been appointed in September 1921 to inquire into the difficult financial situation of the Free City. Its first report was presented to the League Council in 1922 (*Official Journal*, June 1922, pp. 642-56). The report on a separate currency for the Free City was issued on September 5, 1923 (*ibid.* [November 1923], p. 1484) [See Crusen, pp. 515-25].

⁴³ Agreement between Danzig and Poland Concerning Monetary Reform in the Free City of Danzig, dated September 22, 1923 (*Zusammenstellung der zwischen der Freien Stadt Danzig und der Republik Polen abgeschlossenen Verträge, Abkommen, und Vereinbarungen, 1920-1923*, pp. 343-57). See also agreement of January 23, 1924 (*ibid.*, 1924-27, pp. 95-97).

⁴⁴ See *The Currency and the Bank of Issue of the Free City of Danzig* (published by the Danzig branch of the Dresdner Bank, Danzig, 1924), p. 4.

⁴⁵ *Ibid.* For the German text of the currency laws of 1923, see pp. 5-36.

⁴⁶ For a detailed and documented analysis of "The Finances of Danzig, 1920-35," see Morrow, *Peace Settlement*, Appendix I, pp. 495-511.

erence was made to it in the Danzig-Polish Agreement of September 22, 1923, concerning the establishment of a separate Danzig currency.⁴⁷ It was also officially referred to in 1932 when Colonel Beck and President Ziehm of the Danzig Senate, in an exchange of letters, agreed to future negotiations on the subject of a common currency.⁴⁸ Danzig, however, was always afraid of the subject, partly because of a fear that her living standards would be lowered so as to approximate those of Poland, and partly because of her constant concern over the possibility of Polonization of Danzig's life.⁴⁹

In addition, there was the fact that the Polish zloty showed less stability than the Danzig gulden as the result of the severe economic crises in Poland in 1925 and 1926.

THE FREE CITY'S FINANCIAL SITUATION⁵⁰

The financial situation of the new state was decisively influenced by its special treaty and other obligations and, of course, by the economic conditions prevailing in Danzig, Poland, and, in certain ways, in Germany. Mention has already been made of the fact that Danzig used German currency for several years and that she was therefore subjected to the vicissitudes of this highly inflated currency. Danzig's situation was not helped by the fact that the new Polish state, with which she was united in a customs union for several years, allowed German, Austrian, and Russian money to circulate in its territory until a specific Polish currency was established early in 1924, and that later the Polish zloty also suffered from inflationary disturbances.

For these and other reasons Danzig often found herself in financial straits. At the time of the city's establishment she had to take over a certain amount of German state property, for most of which she had no use and for which the Reich claimed compensation at a very high rate. She also had to take on a share of the German governmental debt and to shoulder a part of the reparations paid to the Allies, amounting to actual payments of some \$1,800,000. For a while, there was further the cost of the temporary Allied occupation of Danzig by French and British troops. The Free City also paid

⁴⁷ See above, note 43.

⁴⁸ *Official Journal*, December 1932, pp. 1960-61 and 2282-84.

⁴⁹ See, for instance, Morrow, *Peace Settlement*, pp. 503-4. See *ibid.*, pp. 119-24, for a discussion of Poland's unjustified attempt to force the zloty on Danzig as the only accepted currency for payments of all railway charges, including passenger fares.

⁵⁰ The ensuing section of this chapter is based on Morrow, *Peace Settlement*, pp. 495-511.

one-half of the cost of the League of Nations machinery in Danzig.

Other items in red ink were taxes defaulted by farmers who suffered from Polish competition, large payments for unemployment relief, and contributions to the pensions of German officials and disabled soldiers. The number of government officials was large, and the general governmental overhead for a state of city size was burdensome. To mention examples of such extra costs—the Free City with some 400,000 inhabitants had to support a Supreme Court and a Department of Foreign Relations, as well as a large customs machinery for a state boundary which was very extended in proportion to the size of the territory and its population. Government salaries in Danzig had long been ten per cent higher than elsewhere in Germany, thus attracting German officials to live in the Eastern Marshes of the Reich. After the establishment of the Free City this expensive salary differential was continued, since the Free City had no facilities for training its own officials and had to obtain them from Germany; in addition, their prospects of advancement were small and compensation had to be offered for that. Also, when the salary scale was adopted in 1924, the cost of living was higher than in Germany.

Upon the recommendation of the League Sub-Committee which worked on Danzig's financial condition, the number and salaries of government officials were reduced. A state tobacco monopoly was introduced for the sake of fiscal gains, and a match monopoly was granted to the Swedish Match Company for thirty-five years in return for a payment to the Free City of a million gulden plus certain annual amounts.

The League of Nations sanctioned a number of foreign loans in 1925, 1927, and later, partly to the Danzig state and partly to the Danzig municipality, for the expansion of harbor facilities, payments on reparations account, the construction of housing, and various public works.⁵¹

Rates of interest and discount decreased as Danzig's monetary system became more stable, until in 1926 the Bank of Danzig charged only 6½ per cent, as against the common rate of 20 per cent in the early years of the Free City.

⁵¹ See below, p. 114.

THE THREEFOLD ROLE OF THE LEAGUE OF NATIONS

When the Treaty of Versailles decreed the establishment of the Free City for the purpose of insuring Poland's access to the sea through Danzig while preserving the city's separate existence, it placed Danzig in an intimate relationship with the League of Nations. The role of the League in regard to the Free City, basically determined by the Peace Treaty, involved the following relationships: (a) the Constitution of the Free City was originally approved by the League and placed under its guarantee; (b) the League settled (in two instances through its High Commissioner residing at Danzig and, if appealed, through the Council) all differences arising between the Free City and the Polish Republic; (c) the Free City was placed under the protection of the League. Thus the League of Nations became the guarantor of Danzig's Constitution, mediator and if necessary arbitrator of conflicts between her and Poland, and protector of her territorial integrity. It is notable that in assuming these tasks, the League insisted on playing a determining part in the creation of the new order,¹ instead of merely guaranteeing it as created by the Conference of Ambassadors. This became especially evident in connection with its decisive influence on the making of the Constitution

THE LEAGUE AS GUARANTOR OF THE CONSTITUTION

Article 103, paragraph 1, of the Treaty of Versailles had provided:

A constitution for the Free City of Danzig shall be drawn up by the duly appointed representatives of the Free City in agreement with a High Commissioner to be appointed by the League of Nations. This constitution shall be placed under the guarantee of the League of Nations.

In pursuance of this provision the League Council had authorized the election in Danzig of the Constituent Assembly. When the draft constitution resulting from its deliberations was dispatched to Geneva by the High Commissioner for perusal and approval by the Council, its *rapporteur*, Viscount Ishii, presented a *Report*, according to which Article 103 implied:

¹ Pmk, *The Conference of Ambassadors*, p. 68.

- 1) That this Constitution will have to obtain the approval of the League of Nations;
- 2) that the Constitution can only be changed with the permission of the League of Nations;
- 3) that the constitutional life of the Free City of Danzig must always be in accordance with the terms of this Constitution.

The *rapporteur* continued,

It is obvious, that the guarantee of the constitution and the protection given by the League are intimately connected. The fundamental idea is that the Free City should form in the international organization of Europe a community which must be protected against all undue interference on the part of any country, and which must have its own regular existence. It is, of course, understood that it would accept in their entirety the terms of the Treaty of Versailles and the rights which this Treaty confers on Poland.

It would seem to follow from these considerations that the League of Nations should examine whether this Constitution provides the necessary guarantees for a stable and peaceable political situation, and will ensure a Government which will carry out its duties in accordance with the principles on which the Free City has been constituted, and likewise the obligations which have been imposed upon it by the Peace Treaty of Versailles. It is particularly necessary to see whether the Constitution of the Free City contains germs of disorder, inadequate government, anarchy or disregard for international obligations.²

The Viscount then suggested various alterations and amendments. In regard to the proposed clause to the effect that the League of Nations had the right to require at any time from the government of Danzig authentic information on the public affairs of the Free City, and that effect should always be given to such a request, he added the observation:

. . . it would seem that the protection to be given by the League of Nations to the Free City of Danzig, and the guarantee of the constitution of this town by the League, make it indispensable that the League should be enabled to obtain, if necessary, from the Danzig government accurate information on the public affairs of this town . . .

The League of Nations, by Article 103 of the Treaty of Versailles, paragraph 2, shall have at Danzig a High Commissioner, whose duties shall include that of giving a summary decision in all disputes, which might arise between Poland and the Free City on the subject of the said Treaty or supplementary arrangements and agreements. This High Commissioner will certainly receive information with regard to the matters which will be submitted to him in accordance with this provision.

² *Ishii Report*, p 3.

*But this does not appear to be sufficient. It is necessary that the League of Nations should be able to obtain information, not only in the case of disputes between Danzig and Poland, but also when the duties and rights arising from the protection and the guarantee of the League may come into question.*³

Finally the Viscount declared:

It is strange to note that no provision has been inserted in the Constitution with regard to the Military Forces of the Free City. It would be desirable, from the point of view of the League of Nations, to lay down in no uncertain terms that the City of Danzig shall not be used as a military or naval base, and that it shall not construct fortifications or authorize the manufacture of munitions or war material in its territory, without having previously and in each case obtained the consent of the League of Nations.³

These changes and amendments were consequently adopted by the Constituent Assembly, at the request of the League.

Between 1920 and 1933 Danzig lived up to her international obligation to lead a governmental life in accordance with the principles on which the Free City had been constituted. Her political life conformed closely to the provisions of the Constitution, while the work of the High Commissioner was confined almost entirely to the mediation and arbitration of differences arising between Danzig and Poland.⁴ After May 1933, however, violations of the Constitution took place frequently and consistently. The High Commissioner of the League, the League Council, especially appointed committees of jurists, and the World Court were kept busy ascertaining the fact, soon obvious to all, that if the Nazis could not amend the Constitution for lack of the required two-thirds majority in the Assembly, they would bend, twist, and break it whenever it stood in their way.

Although the process was fought by the League of Nations, there were growing indications of the League's own weakening status after the Ethiopian invasion. Asserting itself resolutely at first, it soon resorted to mere words and observations accompanied by gross lack of action in spite of its definite obligation to guarantee the democratic provisions of the Constitution of Danzig.⁵ The defection from

³ *Ibid.*, p. 4; italics supplied.

⁴ Advisory Opinion on *Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City*, Publications of the Permanent Court of International Justice, Series A/B, No. 65.

⁵ The League responsibilities and actions are reviewed in detail in Hans L. Leonhardt, *Nazi Conquest of Danzig* (University of Chicago Press, 1942); see especially his chapter viii, "A Jural Examination of the League's Guaranty for the Danzig Constitution." See also Mildred S. Wertheimer, "The Nazification of Danzig," *Foreign Policy Reports*, June 1, 1936. [Crusen, pp. 555-610.]

the League of Poland⁶—for whose benefit the Free City had been established—and her rapprochement with Hitler were no encouragement to the Council members to act more firmly in matters affecting the Danzig Constitution than they had done in other affairs even closer to home.

THE LEAGUE AS MEDIATOR AND ARBITRATOR

While the guaranty of the Constitution amounted to a League relationship with the Free City only, the role of the League as mediator and arbitrator applied equally to Danzig and Poland. Its purpose was the peaceful settlement of disputes among very unequal neighbors, differing radically from each other in size of territory and population, in political and economic power, and in language and race. Yet there was a geographical and economic as well as a political and legal necessity for them to live together in a closer and more intimate relationship than is the general rule among states. There was plenty of opportunity for disputation, and the general expectation that there would be much strife was soon fulfilled. In fact, it is questionable whether the Free City of Danzig arrangement would have worked at all had it not been for the existence of this unique piece of international peace-making, peace-keeping machinery.

This task of the League, imposed upon it by the Treaty of Versailles, was accomplished by a resident High Commissioner⁷ who had general as well as specific duties, subject to review by the League Council. His role as a mediator and arbitrator of disputes between Poland and Danzig was his outstanding and most important characteristic. It was provided for in Article 103 of the Treaty of Versailles, which stated that a High Commissioner, to be appointed by the League and to reside at Danzig, was to be entrusted with the duty of dealing in the first instance with all differences arising between Poland and the Free City of Danzig in regard to that Treaty or any arrangements or agreements made under it. The Treaty of Paris of November 9, 1920, between the Free City and Poland, which together with the Treaty of Versailles formed the main foundation for Danzig-Polish relationships,⁸ went considerably farther in the sweeping provision of Article 39, providing that "any differences

⁶ For details, see Leonhardt, *Nazi Conquest of Danzig*, pp. 270-80; also Raymond Leslie Buell, *Poland: Key to Europe* (New York, 3d ed., 1939), pp. 355-57.

⁷ Herbert Kraus, "Die Stellung des Völkerbundskommissars in Danzig," *Deutsche Juristen-Zeitung*, July 15, 1926, pp. 986-91; Walter Friedrich, *Der Hohe Kommissar des Völkerbundes in Danzig* (doctoral dissertation, University of Leipzig), 1932; Georg Gagel, *Die völkerrechtliche Stellung Danzigs, insbesondere der Völkerbundskommissar* (doctoral dissertation, University of Würzburg), 1927. [See Crusen, pp. 541-48, 563-64, 574-76.]

⁸ See below, p. 89, note 1.

arising between Poland and the Free City of Danzig in regard to the present Treaty or to any other subsequent agreements, arrangements, or conventions, *or to any matter affecting the relations between Poland and the Free City*, shall be submitted by one or the other party to the decision of the High Commissioner, who shall, if he deems it necessary, refer the matter to the Council of the League of Nations."⁹

Within the general competence of the High Commissioner, therefore, were all differences arising over provisions of treaties and agreements between the two states as well as matters affecting *the relations between Poland and the Free City*. It did not include questions in which Danzig and Poland might possess an interest but which did not affect their relationship.¹⁰

In addition to this general jurisdiction, the High Commissioner possessed certain powers conferred upon him either by treaty agreements between Poland and Danzig, such as the right to veto certain treaties concluded by Poland,¹¹ or by Council decisions. As on several occasions one of the governments had been charged with recourse to direct action, prejudicial to the course of adjudication, the League Council, until it could decide on the question itself, left it to the High Commissioner to decide provisionally whether such a step had been resorted to.¹² Unfortunately, this method proved unsatisfactory in

⁹ Italics by the present writer. German and English text of the convention in *Ämtliche Urkunden zum Vertrage zwischen der Freien Stadt Danzig und der Republik Polen vom 9 November 1920*, published by the Danzig Senate, pp. 170-207. Hereafter cited as *Ämtliche Urkunden zum Vertrage*. The decisions were published periodically by the Danzig Senate as *Decisions of the High Commissioner of the League of Nations*. Hereafter cited as *Decisions*. [See Crusen, pp. 561-78.]

¹⁰ A 1932 Advisory Opinion of the World Court concerning the treatment of Polish nationals in Danzig stated this limitation clearly. It held that, contrary to the Polish contention, any Polish grievance arising out of the application of the Danzig Constitution *as such* cannot give rise to differences subject to the High Commissioner's decision; the application of the Constitution might, however, result in the violation of a *treaty obligation*, which would come within the High Commissioner's competence (*Treatment of Polish Nationals, and Other Persons of Polish Origin or Speech in the Danzig Territory*, Publications of the Permanent Court of International Justice, Series A/B, No. 44, pp. 22-24). Naturalization questions, usually reserved to domestic laws, were subject to Article 34 of the Treaty of Paris and therefore affected Danzig-Polish relations; see Hans Malcomess, *Der Erwerb und Verlust der Danziger Staatsangehörigkeit auf Grund des Gesetzes vom 30. Mai 1922* (doctoral dissertation, University of Breslau, 1932), pp. 5-7. Concerning the conduct of Danzig's foreign affairs, see pp. 89-114, below.

¹¹ Article 6, Treaty of Paris. See below, p. 100

¹² The Council defined "direct action" as "one which might endanger or prove a serious obstacle to the maintenance of public security in Danzig or which might jeopardize good relations between Danzig and Poland. Such action might take the form of passive resistance as well as active measures" (*Official Journal*, 1925, pp. 468, 564). The High Commissioner gave one Provisional Decision in 1932, hold-

practice; but despite special efforts no better way was devised.¹³ It was for the High Commissioner to decide in each case whether a given dispute came within his competence, although Danzig or Poland might dispute his competence in an appeal to the Council.¹⁴ He was not able to act *ex officio*, being limited, according to a 1925 Advisory Opinion of the World Court, to questions submitted to him by one or both parties to a dispute.¹⁵ His decisions were subject to appeal to the League Council.¹⁶

Over eighty decisions¹⁷ given by the High Commissioner furnish evidence of the heavy burden which this judicial task¹⁸ imposed upon him. The majority of the questions in dispute were submitted by Danzig, while some were submitted by both parties. In a number of cases, they were filed with the High Commissioner in order to establish the rights of either or both parties before a serious dispute had

ing that Poland has resorted to direct action (*Decisions, 1928-1932*, pp. 42-57). [Crusen, pp. 578-82.]

¹³ *Official Journal*, December 1932, pp. 1960-61; February 1933, pp. 236-39; July 1933, p. 798.

¹⁴ Council Resolution of July 7, 1923, *Official Journal*, 1923, pp. 883-84, 927, 1001, 1007-8. See also note 10, above. In his decision of November 15, 1924, the High Commissioner limited the scope of his judgment to one public corporation, instead of six, on the ground that the Polish government had furnished data regarding only one (*Decisions, 1924*, p. 98).

¹⁵ "From these provisions [Article 103 of the Treaty of Versailles and Article 39 of the Treaty of Paris] it is quite clear that the functions of the High Commissioner are of a judicial character and limited to deciding questions submitted by one or other of the parties," *Polish Postal Service in Danzig*, Publications of the Permanent Court of International Justice, Series B, No. 11, p. 26.

¹⁶ A Danzig-Polish agreement of June 20, 1921, provided for a forty-day time limit for appeals; see *Zusammenstellung der zwischen der Freien Stadt Danzig und der Republik Polen abgeschlossenen Verträge, Abkommen, und Vereinbarungen, 1920-1923*, pp. 190-95. This series of documents was published by the Danzig Senate in six volumes, 1920-1938. (Hereafter cited as *Zusammenstellung*, with dates of volume cited.) In one case the parties agreed to hold over the appeal of Danzig against a decision (leasing property of the Harbor Board) for two years. During this time it was to have full legal force; but if after two years Danzig would again bring up the matter, this agreement "shall in no way prejudice the Council's decision on the subject." Both parties expressly reserved the right to present on that occasion their *de jure* and *de facto* arguments (Agreement of April 16, 1923; *Zusammenstellung, 1920-1923*, pp. 112-18).

¹⁷ In 1934 Danzig and Poland agreed that as to eighteen cases pending before the High Commissioner one should be adjourned and procedure in the others should be suspended (*Free City of Danzig. General Report by the High Commissioner for 1934*, Geneva, 1935, League Document C.42, 1935, VII).

¹⁸ The judicial character of the High Commissioner's function was originally denied by Julian Makowski (*La situation juridique du territoire de la Ville Libre de Danzig* [Paris, 1925], pp. 19-20, 53), and upheld by Walther Schucking and Hans Wehberg (*Die Satzung des Völkerbundes* [Berlin, 3d ed., 1931], Vol. I, p. 131) and others. The question was decided by the World Court, see note 15, above.

arisen.¹⁹ Many of the decisions were not confined to explanations or elucidations but constituted further developments of the treaty relationship between the two states.²⁰ Most of the cases came up in the early years of 1921 to 1924 partly because many meager treaty provisions needed to be defined and partly because in later years the two governments were inclined to favor direct negotiations rather than adjudication.

The majority of the decisions were appealed. The High Commissioner and the Council tried to discourage appeals, but to little avail. High Commissioner Haking spoke his mind in a speech before the League Council in May 1922, when he suggested

that much of the Council's time was being taken up unnecessarily by the numerous appeals from one or the other party, or from both at once, against his decisions. The High Commissioner had always tried to keep the balance equal. The Council could judge whether these decisions were just and workable. If they were neither just nor workable, neither the Council nor Poland nor Danzig should continue to put up with the High Commissioner any longer. If they were just and workable, the Council should try to discourage these continuous appeals by using its influence with the two parties to accept them.²¹

His successor, High Commissioner MacDonnell, expressed the same view when he told the Council two and a half years later :

It was clear that the Council felt that the practice of appealing against practically every decision of the High Commissioner was one which could not continue. Article 39 of the Treaty of Paris was designed not to facilitate access to the Council on every little two-penny-half-penny question about a steam ferry or whether a policeman was to sit in the water or on the land, but it was meant to restrict that access to cases of great importance, of which few arose . . .

The main lines of Polish-Danzig relations had now been laid down. All the dominant points of interest and difficulty between the two countries had been more or less settled by the Council or by decision of the High Commissioner, and the majority of the cases that came before the High Commissioner were really secondary. Fifty per cent of them

¹⁹ See, for example, the letter of the High Commissioner to the Secretary-General of the League of Nations, September 1, 1923, in regard to the legal status of Polish citizens in Danzig: "I wish to make it clear that in this particular case there is no animosity or strained relationship between the two governments, but both feel that until this very important question is settled it will be impossible for each to know what should be its correct and legal attitude towards the other side . . ." (*Zusammenstellung, 1920-1923*, p. 284)

²⁰ Georg Crusen, "Der Hohe Kommissar des VB. in Danzig," *Volkerbund und Volkerrecht*, July 1935, p. 233.

²¹ *Official Journal*, June 1922, p. 534.

ought not to come before the High Commissioner, still less before the Council

Appeals were made to the Council on every question by one side or the other, not only on their merits but as a matter of tactics. One side appealed, and the other side said, "Shall I appeal? If I do not, the other side may get all the advantage. I had better appeal, too, and I may get something." So they both appealed.²²

It is characteristic of judicial decisions that the losing side wishes to exercise the right to appeal and exhaust all possibilities of a more favorable award. But the High Commissioner's decisions were altered only four times and in only one case fully reversed,²³ although the Council had occasion to deal in its Resolutions with some twenty cases. Six times the Council requested Advisory Opinions from the World Court, and these formed the bases of subsequent settlements.²⁴

Some appeals were withdrawn before the League Council acted upon them, and a good many were obviated by agreements between Danzig and Poland following a decision.²⁵ While the High Commissioners bore a heavy judicial burden, they also endeavored to bring about agreements between the parties which would make decisions unnecessary. Frequently they were successful, if not in Danzig, then in Geneva, where conversations between the Polish representative and the President of the Danzig Senate would be held in the Palais des Nations, often under the guidance of the *rapporteur* of the Council and members of the Administrative Section of the League Secretariat.

This method was described by High Commissioner MacDonnell in a letter of September 1, 1923, to the Secretary-General, reporting for the information of the Council:

Immediately after the last session the representatives of Poland and the Free City met with experts of the Secretariat under my chairmanship, and proceeded to an examination of all the differences at that moment outstanding between the two Governments. In the course of conversa-

²² *Official Journal*, February 1925, pp. 153-54

²³ The decision of 1925, dealing with the Polish postal, telegraphic, and telephonic service in the port of Danzig, was reversed by the Council on the basis of an Advisory Opinion of the World Court; see below, p. 167.

²⁴ These six cases were (1) 1925, Polish postal, telegraphic, and telephonic service in the port of Danzig; (2) 1928, Jurisdiction of the courts of Danzig; (3) 1930, Membership of Danzig in the International Labor Office; (4) 1931, Polish war vessels in Danzig; (5) 1932, Treatment of Polish nationals in Danzig; (6) 1935, Amendment of the criminal code of Danzig.

²⁵ See *Summary of the Subsequent Legal Effects of the Decisions by the High Commissioner, 1921 to 1927*, published by the Danzig Senate, 1928; see pp. 355-63.

tions lasting three days the views of both parties were carefully examined and a foundation on general lines established, upon which further negotiations could be based. As a result of these further negotiations every difference outstanding in July last has been settled except one, and the appeals against the seven decisions given by me have either been withdrawn or their execution left in abeyance.

Attached to the present report will be found agreements on the cases which have been settled.

. . . . I wish to express, on my own behalf, my gratitude to both parties for the way in which they have enabled me to negotiate agreements, and to the members of the Secretariat for the expert and understanding manner in which they have handled the various problems.²⁶

Some two years later the League Council set up a standard procedure for mediation through the High Commissioner, to which Danzig and Poland agreed. The High Commissioner was to promote direct negotiations between the parties. If he invited either side to discuss the matter with him, his invitation had to be accepted. If one party made an appeal, he would notify the other of the fact and pass the written comments of each back and forth between them. If the High Commissioner felt the need of independent technical or legal advice, the Secretary-General of the League was to provide it, at the expense of the disputants. Both sides were to be informed of the opinion of experts, as a possible basis of agreement which would obviate a decision; but the High Commissioner was not bound by them when making his decision.²⁷ If an understanding was reached between the disputants, the Council would, of course, find it unnecessary to take action. Agreements would be embodied in a "note" and deposited with the Secretariat.²⁸

There were additional occasions when the High Commissioner proved helpful. When the two governments were not on speaking terms, one would ask him to transmit communications to the other. In that way Danzig and Poland could have their quarrel as well as their continued close relationships. The High Commissioner would accede to these requests because it gave him many an opportunity to pour oil on troubled waters. The Secretary-General of the League wrote him in this connection:

. . . . although I have no authority to give an authentic interpretation of the Treaty stipulations which define your position as High Com-

²⁶ Full text in *Zusammenstellung, 1920-1923*, pp. 280-89.

²⁷ *Official Journal*, 1925, pp. 880-82.

²⁸ These agreements are reprinted in the several volumes of the *Zusammenstellung*

missioner of the League of Nations at Danzig, I think, as you have asked for my views on the matter, I should say that in my opinion the High Commissioner will decide at his own discretion whether and to what extent he should agree to act as intermediary in forwarding letters and in exercising his influence to obtain an amicable settlement. *The function of the High Commissioner is not only that of a judicial arbitrator between Poland and Danzig, but, I think, quite as well that of a peacemaker and a peacekeeper between these two states.* The fact that one of the two Governments addresses itself to the High Commissioner in a controversial matter with the other Government would perhaps, as a general rule, be sufficient reason for the High Commissioner to accept the position as intermediary or mediator.

On the other hand, the High Commissioner would, I should think, be fully entitled to refuse to deal with differences between the Free City and Poland which have not been formally submitted for him to decide, if he is of opinion that his intervention is unnecessary or undesirable.²⁹

In spite of all this work of the High Commissioner, the Council had to deal with over fifty Danzig-Poland disputes in addition to the appeal cases. Each had, of course, first been submitted to the High Commissioner, but for one reason or another he had withheld judgment on them, transmitting them to Geneva. Foster points out that he might

have doubted his competence to adjudicate in a particular controversy; or he may have hoped that if mediation had been unavailing in Danzig it might prove efficacious in Geneva; or the nature of the problem may have been such as to render arbitration an unsatisfactory method of solution. Again, many of these conflicts have arisen out of the provisions of earlier verdicts, and there appeared to be little purpose in delivering a second decision in regard to them. In one case, at least, the High Commissioner did not give judgment partly because the matter was of such great importance to the two Governments that it seemed to him certain that an appeal would be lodged against any decision he might hand down; while on another occasion the urgency of the affair made it imperative to secure a final settlement at the earliest possible moment.³⁰

In addition to his primary judicial task, the High Commissioner had to fulfill several other functions. He had to make an annual report to the Council on all matters within his jurisdiction and to carry out any subsequent instructions given him by the League.³¹ As shown below, he was assigned a special part in the defense of the Free City.

²⁹ *Official Journal*, 1921, p. 467. Italics by the present writer.

³⁰ Foster MS, "The Free City of Danzig," pp. 112-13; he refers to specific decisions in his footnotes.

³¹ *Official Journal*, 1920, p. 53.

Furthermore, he had to keep one eye on the Polish munitions depot in the port of Danzig, and had the duty of confiscating any war materials or airplanes which the Germans might try to hide.³² After the Nazis got into power he kept track of their violations of the Danzig Constitution, informing the Council about them, and forwarding to Geneva petitions³³ of Danzigers seeking redress against them.

To facilitate his work he was given diplomatic immunity. Appointments were usually made for three years, and reappointments were possible. The salary was 72,000 gold francs per year, plus allowances for office staff, traveling expenses, etc. Residential and office accommodations were furnished, with the expenses divided equally between Danzig and Poland.³⁴

Nationals of Great Britain, Holland, Italy, Eire, Denmark, and Switzerland occupied this strenuous post.³⁵ In general, the High Commissioners worked untiringly in their roles as judicial arbitrators, mediators, and intermediaries. Naturally, they were men of uneven quality as well as of diversified background; they were subject to attack by both sides and beloved by neither.³⁶ In trying to be fair and impartial³⁷ they were often forced to hurt either Danzig or Poland. Toward the end, they were occupied mostly with violations of the Danzig Constitution. In that effort, Mr. Sean Lester was too competent and courageous to last at a time when the League was declining in strength and initiative. He was made Under-Secretary of the League, while during the term of his successor, the Swiss Professor Carl J. Burckhardt, kin of an illustrious historian, the Nazis ran democracy out of the Free City.³⁸

³² H. Kraus, *Volkerbundskommissar*, p. 987.

³³ A procedure for handling petitions was fixed by the Council in 1925, *Official Journal*, 1925, Part II, p. 950. [Crusen, *Der Pariser Vertrag*, pp. 559-60.]

³⁴ *Official Journal*, December 1933, p. 1650.

³⁵ They are listed in the Appendix, pp. 352-53, below.

³⁶ High Commissioners Tower, Haking, and MacDonnell were regarded favorably by Danzig, while van Hamel was heartily disliked (G. Gagel, *Die volkerrechtliche Stellung Danzigs, insbesondere der Volkerbundskommissar*, pp. 36-38); Lester was strongly assailed by the Nazis (Leonhardt, *Nazi Conquest of Danzig*, pp. 129 ff., 182 ff.).

³⁷ G. Crusen, "Der Hohe Kommissar des VB. in Danzig" (*Volkerbund und Volkerrecht*), p. 233, stated in 1935 that, "on the whole, the High Commissioners have endeavored successfully to do justice to the prescriptions of the Treaty of Paris and its later supplements." Dr. Crusen was the Chief Justice of Danzig until his retirement in 1932.

³⁸ For a characterization of Mr. Lester as High Commissioner, see Leonhardt, *Nazi Conquest of Danzig*, pp. 216-25, 264-66; and for one of Mr. Burckhardt, see *ibid.*, pp. 311-13, 315-17, 327, 331-38.

THE LEAGUE AS PROTECTOR

The protection of the Free City by the League was potentially a very important point in their mutual relationship. For Danzig was not only very weak politically and economically, compared with either of her neighbors—she was also forbidden without the previous consent of the League in each case (1) to allow her territory to be used as a military or naval base,³⁹ (2) to erect fortifications, or (3) to authorize the manufacture of munitions or war material on her territory.

The Treaty of Versailles was not specific as to the protection to be granted by the League to the Free City; it merely provided that it would be placed under its protection. The Council of the League early concerned itself with the question in a resolution of June 22, 1921. In principle, the resolution reserved to the League the defense of the territory of Danzig; it refused to delegate this function once and for all to Poland, as had been the wish of the Polish government.⁴⁰ However, the Council accepted the view of the Conference of Ambassadors that Poland was particularly fitted to insure the defense of Danzig against external aggression, as well as the maintenance of order in the event that the local police force should prove unequal to its task, subject in every single case to the consent of the League Council or at least, in especially urgent cases, of the High Commissioner. As soon as the object in view had been achieved to the satisfaction of the High Commissioner, the Polish troops were to be withdrawn.⁴¹ The organization of the defense of Danzig was to be decided in agreement with the League Council, which might also provide for the collaboration of one or more members of the League.

The whole question of the protection of Danzig by the League became purely academic in the course of events. The arrangements had been poor ones to begin with. They had assumed that if Danzig were attacked Poland would be strong enough to repel the invader (which could only be Germany). They also had taken it for granted that Polish troops would withdraw from the Free City upon the orders of the High Commissioner instead of staging Vilna or Memel affairs. The main value of the provisions for the Free City's protection was experimental. They showed how not to act if similar situations should arise in the future. In that way the plans of 1921 can be said to have served a good purpose.

³⁹ Poland had demanded the right to maintain military and naval forces in the Free City as well as the right to erect fortifications; see the first Polish draft of the Treaty of Paris, Article 30, in *Amtliche Urkunden zur Konvention zwischen Dantzig und Polen vom 15. November 1920*, p. 29, and also pp. 192-212, below.

⁴⁰ *Official Journal*, 1921, pp. 671-72. [Crusen, *Der Pariser Vertrag*, pp. 535-55.]

⁴¹ *Official Journal*, loc. cit.

THE CONDUCT OF DANZIG'S FOREIGN RELATIONS

Since the Free City of Danzig was intended to secure to Poland a free and secure access to the sea, it was expected to have very close relations with that state. But, as these international Siamese twins were very unlike in their tastes, desires, and purposes, a complicated treaty system was built up to ascertain and delimit their respective rights and duties, which, in turn, were to be enforced by the international machinery connected with the League of Nations.

THE TREATY BASIS

The legal relationship between Danzig and Poland rested basically on Articles 100 to 108 of the Treaty of Versailles and the Treaty of Paris of November 9, 1920, which was concluded in pursuance of Article 104 of the Peace Treaty.¹ Article 104 of the Treaty of Versailles had assigned to the Principal Allied Powers the task of negotiating a treaty between Poland and the Free City, to come into force at the same time as the establishment of the Free City, with a sixfold purpose:

- (1) To effect the inclusion of the Free City of Danzig within the Polish Customs frontiers, and to establish a free area in the port;
- (2) To ensure to Poland without any restriction the free use and service of all waterways, docks, basins, wharves, and other works within the territory of the Free City necessary for Polish imports and exports;

¹ The texts of both documents are given in Appendix A. See the report of the *rapporteur* on Danzig questions, as adopted by the League Council on July 7, 1923. "I am of the opinion that the Treaty of November 9th, 1920, constitutes an entirely valid legal basis for the relations between Danzig and Poland, but that in the event of doubt as to the interpretation of any clause in the Treaty of November 9th recourse may be had, in order to dispel such doubt, to Article 104 of the Treaty of Versailles in virtue of which the Treaty of November 9th, 1920, was concluded" (*Official Journal*, August 1923, pp. 927, 1008). The World Court stated in its Advisory Opinion of February 4, 1932: "As between Danzig and Poland, the Convention of Paris is the instrument which is directly binding on Danzig; but in case of doubt as to the meaning of its provisions, recourse may be had to the Treaty of Versailles, not for the purpose of discarding the terms of the Convention, but with a view to elucidating their meaning." Advisory Opinion on *Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory*. Publications of the Permanent Court of International Justice, Series A/B, No. 44, p. 32.

- (3) To ensure to Poland the control and administration of the Vistula and of the whole railway system within the Free City, except such street- and other railways as serve primarily the needs of the Free City, and of postal, telegraphic and telephonic communications between Poland and the port of Danzig,
- (4) To ensure to Poland the right to develop and improve the waterways, docks, basins, wharves, railways and other works and means of communication mentioned in this Article, as well as to lease or purchase through appropriate processes such land and other property as may be necessary for these purposes;
- (5) To provide against any discrimination within the Free City of Danzig to the detriment of citizens of Poland and other persons of Polish origin or speech;
- (6) To provide that the Polish Government shall undertake the conduct of the foreign relations of the Free City of Danzig as well as the diplomatic protection of citizens of that city when abroad.

Sir Reginald Tower, the Allied Administrator, presided over the first meeting between the Danzig and Polish delegations. Soon the battle royal was on between two strongly opposed viewpoints—one German-Danzig, the other Polish. Determination was the only thing the two sides had in common. The negotiations lasted from May to September but led to no agreement.²

THE POLISH PROPOSALS

The draft convention prepared by the Polish government went to certain extremes and in so doing outdistanced some of the provisions of the Treaty of Versailles. Since Poland had failed in her desire to gain outright possession of Danzig, she now sought to get control in a roundabout way. While the Treaty of Versailles provided for the "conduct" by Poland of the foreign relations of Danzig, the Polish claim to this diplomatic representation abroad was couched in very sweeping terms, with no provision made at all for diplomatic relations between Danzig and Poland. Poland simply proposed to send a Resident to Danzig to serve as a go-between of the two governments, rather than the Diplomatic Representative called for in the Treaty. Contrary to the specific provision of the Versailles Treaty, differences over treaty interpretation were not to be decided by a High Commissioner of the League of Nations but were to be submitted to a Court of Arbitration consisting of two Poles and two Danzigers, with a supreme arbiter in case of a tie to be appointed by these four or the President of the Swiss Supreme Court.

² Matschke, *Die Grundlagen des internationalen Statuts von Danzig*, pp. 66 ff ; Pink, *Conference of Ambassadors*, p. 58.

Poland further asserted the right to keep a permanent military garrison in Danzig, to convert the harbor into a naval base, to erect fortifications and establish air bases, and to maintain her own police force. Danzig would have Polish currency only, and Poland would enjoy complete control of the harbor and all its installations. The postal, telegraphic, and telephonic services would be administered by Poland, while Danzig ships would fly the Polish flag.

Poland would have the right to establish at her own expense hospitals, sanatoria, workers' homes, playing fields, and other institutions of public and social welfare, while Polish citizens residing in the Free City for six months were to enjoy political rights. Danzig was to maintain grade schools and at least two high schools for Polish children, and was not to be allowed to differentiate between Polish and Danzig citizens in the employment of teachers in *any* public educational institution.

It was further provided that all Polish laws would eventually become the laws of Danzig and the Supreme Court in Warsaw would become the Supreme Court of Appeal for Danzig. Polish would become the equal of German as the official language.³

THE DANZIG DRAFT

The Danzig draft convention was entirely different in character, maintaining a defensive attitude of trying to save as much as possible of a free existence for the Free City. Claiming and stressing absolute independence and sovereignty for the Free City, it sought to limit the privileges accorded to Poland in the harbor, in the control of railways, in the supervision of the Vistula, in her use of the postal, telegraphic, and telephonic communications, and in the diplomatic representation abroad of Danzig's interests. Complying with a recommendation of the Council of Ambassadors in Paris, the Danzig draft proposed administration of the port, the railways, and the Vistula by a commission composed of an equal number of Danzigers and Poles and presided over by the High Commissioner. In regard to her foreign relations, Danzig claimed the right to maintain her own diplomatic representatives abroad and to protect her citizens in foreign countries, adding the extreme statement that Poland would

³ Text of the first Polish draft in *Autliche Urkunden zum Vertrage*, pp. 21-37; of the second draft, pp. 57-89. The second draft was accompanied by a letter from the Polish Delegation to the Peace Conference, signed by M. Paderewski, which stated rather self-consciously: "Si certaines clauses du projet semblent méticuleuses, d'autres paraissent pas trop sévères, il ne faudrait y voir ni animosité de race ni désir de dominer" (*ibid.*, p. 54).

undertake these tasks according to Danzig's wishes *when and to the extent* Danzig might request.⁴

Though the Danzig draft may appear the more moderate, it must be kept in mind that Danzig made a sweeping general claim to sovereign rights⁵ which, if allowed to stand without restrictions, could have been used to nullify many of the specific Polish demands, even leading to infringements of the rights clearly granted to Poland in the Peace Treaty. In her negative method of denying, curtailing, or failing to mention Polish rights, Danzig in effect came close to Poland's manner of demanding too much. It was a matter where one party specialized in sins of commission, while the other excelled in sins of omission. Both methods were intended to serve national aspirations and to salvage as much as possible from a solution which, for different reasons, was cherished by neither party and forced upon both.

The gulf between the Danzig and Polish conceptions of how they were to live together in future years was wide and deep. There was little love between the two, and they made no pretense of covering its lack. Poland tried her best to Polonize Danzig and to put her in a status of dependency, while Danzig was determined to remain German by all means and to save her independence for the sake of her national character.

A COMPULSORY COMPROMISE

Since there was little hope of having the two parties come to an agreement by direct negotiations between them, the great powers faced the task of working out a settlement for them which would put the provisions and intentions of the Treaty of Versailles into effect. This difficult task was accomplished in Paris by the Conference of Ambassadors. The Polish delegation to Paris was headed by M. Paderewski himself—an indication of the importance Poland attached to the question—and the Danzig delegation by Chief Burgo-master Sahm. The two groups, each well supported by expert advisers, were, however, practically supplanted by a third and neutral commission, consisting of an Englishman, a Frenchman, a Japanese, and an Italian appointed by the Conference. This new commission worked out a compromise draft⁶ that was accepted by the Confer-

⁴ Text of the Danzig draft, *ibid.*, pp. 39-53.

⁵ See Note of October 8, 1920, of the Danzig Delegation to the Conference of Ambassadors "on the sovereignty" of the Free City in *Amtliche Urkunden zum Verträge*, pp. 91-96.

⁶ Pink, *Conference of Ambassadors*, p. 59; Matschke, *op. cit.*, pp. 17, 43.

ence and was handed to the Danzig and Polish delegations with the statement that it was "definitive" and with the categorical invitation to sign at four o'clock on October 23.⁷ As it developed, the Conference did allow certain modifications with the approval of both the Danzig and Polish delegations.⁸ The Treaty was signed by both parties on November 9, 1920.⁹ At the same time, the Danzig representatives signed the Decision of the Conference of Ambassadors establishing the Free City.¹⁰ Both documents went into effect November 15.

The fundamental treaty basis was now laid for the existence of the Free City and for her relations with the Polish Republic, consisting of Articles 100 to 108 of the Treaty of Versailles and the Treaty of Paris.¹¹ Numerous subsequent agreements,¹² including the so-called Warsaw Agreement of 1920, and protocols between Danzig and Poland, decisions by the High Commissioner, and resolutions of the League Council added to it interpretations and final judgments, with the help of several advisory opinions of the World Court and special committees of jurists. It will be the task of the remainder of this and the following chapters to traverse this legal labyrinth.

THE CONDUCT OF DANZIG'S FOREIGN RELATIONS BY POLAND

In establishing a Free City of Danzig which was a part neither of Poland nor of Germany, the Allied Powers created for her the problems of a separate existence, including the opportunity and the

⁷ Accompanying letter of the Conference of Ambassadors, *Ämtliche Urkunden zum Verträge*, pp. 126-27; first draft of the convention, *ibid.*, pp. 100-15; final draft, pp. 128-47. The Conference of Ambassadors allowed the delegations two days for making comments on the first draft, *ibid.*, p. 99; upon the request of the Danzig delegation, *ibid.*, pp. 117-25, some minor changes were made.

⁸ For the pertinent diplomatic correspondence between the Danzig delegation and the Conference see *Ämtliche Urkunden zum Verträge*, pp. 150-53; see also Pink, *Conference of Ambassadors*, pp. 59-60. [Crusen, *Der Pariser Vertrag*, pp. 49-52.]

⁹ Text in League of Nations, *Treaty Series*, VI, 189 ff; also in *Ämtliche Urkunden*, pp. 171-205.

¹⁰ Text in *ibid.*, pp. 154-57.

¹¹ See Appendix A and B

¹² Numerous matters of detail arising out of the provisions of the Treaty of Paris were settled subsequently by direct negotiations between the two states. On October 24, 1921, the so-called Warsaw Agreement was signed in that city, containing 244 articles. Text in *Abkommen vom 24. Oktober 1921 zwischen der Freien Stadt Danzig und Polen zur Ausführung und Ergänzung der Danzig-polnischen Konvention vom 9 November, 1920* (Danzig, 1921). The other agreements are in *Zusammenstellung*, published by the Senate of Danzig in several volumes, beginning with the years 1920-1923

necessity of having international relations with other members of the family of nations. Recognizing the problem, the Allied Powers had provided in the Versailles Treaty that the Polish government should undertake the conduct of the foreign relations of the Free City of Danzig¹³ as well as the diplomatic protection of her citizens when abroad. A subsequent treaty between Danzig and Poland, later known as the Treaty (or Convention) of Paris, was to insure this object through pertinent provisions.

Since the Free City was to serve the purpose of providing Poland with a free and secure access to the sea, it seems obvious that the conduct of its foreign relations was granted to Poland for the purpose of making this access more secure,¹⁴ while it was not to be used to the detriment of the Free City. This apparently simple conclusion was not reached in a hurry. The Danzigers and Poles began by disagreeing radically in the interpretation of this treaty provision and proceeded to engage in lively controversy and diplomatic warfare for several years, thus giving the High Commissioner of the League of Nations, the Council of the League, and the World Court adequate opportunity to prove their value.

INTER-STATE RELATIONS BETWEEN DANZIG AND POLAND

According to Article 1 of the Treaty of Paris, "a diplomatic representative of the Polish Government stationed at Danzig shall act as intermediary between the Polish Government and the Government of the Free City," but no provision was made for a Danzig diplomatic representative to be stationed in Warsaw. The principle that Danzig and Poland were on equal footing vis-à-vis each other was denied by

¹³ This treaty provision has been misinterpreted in books on international relations, frequently leading to the mistaken statement that Poland controlled Danzig's foreign relations. [Crusen, *Der Pariser Vertrag*, pp. 52-74.]

¹⁴ An early commentator suggested as the reason instead that Danzig could not afford the expense of conducting her foreign relations. H. Donath, "Die auswärtigen Angelegenheiten der Freien Stadt Danzig" (unpublished doctoral dissertation, University of Würzburg, 1923), quoted in Hans Adolf Harder, *Danzig, Polen und der Völkerbund* (Berlin, 1928), p. 79, n. 4. Harder himself called it "nothing but a compromise born of confusion and intended to cut short heated discussions that were disturbing the progress of the peace conference" (p. 79). Rudolf Pfeuffer, *Die völkerrechtliche Stellung der Freien Stadt Danzig* (Danzig, 1921), pp. 92-93, claimed that Danzig had the right to demand of Poland that she put her diplomatic organization at the disposal of the Free City as a *quid pro quo* for the numerous servitudes of an economic character granted to Poland. Contrariwise, Julian Makowski, "La situation juridique du territoire de la Ville Libre de Dantzig," *Revue générale de droit international publique* (1923, p. 181), claimed the conduct as a "right" of Poland, given her for the purpose of preventing any power from shutting off her access to the sea.

Poland for several years but was at length affirmed by a decision of the High Commissioner of November 7, 1924, in which he observed :

The real point at issue between the two parties is whether Danzig viz-a-viz Poland is an independent state from the point of view of making treaties or agreements and entitled to be treated as such, or, as the Polish Government believes, falls so far short of what is required of a Power with which treaties are made that the usual procedure is not required to be applied.¹⁵

Having considered all aspects of the case at great length, he decided that Danzig and Poland would be governed in the making of agreements between them by the following conclusions (italics by the present writer) :

- 1) That the *Polish-Danzig relations are inter-State relations* but are of so special a kind as not to admit of the normal international procedure, whatever it may be, being necessarily of application to them.
- 2) That on account of those relations, the number and kind of agreements or treaties which are made between Poland and Danzig are in excess of and of a different nature to the agreements which are usually made between States.
- 3) That the procedure for putting these agreements into force in Poland is primarily the concern of the Polish Government provided the procedure is such as to guarantee the Free City that agreements are legally valid according to Polish law.
- 4) That *Danzig is a State in the International sense of the word and is entitled to the use of expressions denoting that fact.*
- 5) That a distinct undertaking to ratify the agreement under notice having been given that undertaking must be put into effect.

It had been settled previously and laid down in the Constitution of the Free City that she was represented in foreign affairs by the Senate, and that legislation was required for the conclusion of treaties with other states in so far as this was not contradictory to the provision of the Treaty of Versailles for the conduct of its foreign relations by Poland.¹⁶

When the basic principle was established by the High Commissioner's decision and accepted by Poland that relations between her and Danzig were *inter-State* relations and that the Free City was a state in the international sense of the word, some substantial prog-

¹⁵ *Decisions*, 1924, p. 63. [Crusen, *Der Pariser Vertrag*, pp. 54-55.]

¹⁶ *Ibid.*, p. 70; see Articles 41 and 45 f. of the Constitution (text in Appendix C, pp. 332-50, below).

ress had been made toward a clarification of issues, but much remained to be settled in principle as well as in practice. The task of definition and delimitation of rights and obligations fell primarily and repeatedly to the High Commissioners, to whom appeals were made by the contesting parties.

THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF
DANZIG'S FOREIGN RELATIONS

The seriousness of the problem was indicated by the character and extent of the claims put forward by the two parties. In the summarizing words of the High Commissioner, Poland held that she had the right "to conduct the Foreign Affairs of Danzig in any manner she pleases even if directly opposed to the foreign policy adopted by the Government of Danzig Danzig, on the other hand, urges that she has the right to request Poland to conduct the Foreign Affairs of Danzig in a manner which suits the foreign policy of Danzig even if opposed to that of Poland, the latter being merely an agent employed by Danzig."¹⁷ The High Commissioner observed that if Poland had been given absolute rights regarding the foreign relations of the Free City, it might be argued that Poland had been given a political grip on the affairs of Danzig, which was not in conformity with the status of Danzig as a Free City under the protection of the League. If, on the other hand, Poland were required to conduct the foreign relations of Danzig entirely according to the will of the Free City, Poland might be called upon to do something which was entirely opposed to her own foreign policy and at variance with her status as a great sovereign state, and thus in a sense would come under the domination of the government of Danzig—a condition which was certainly not contemplated in the Treaty of Versailles. He continued that it was quite clear, therefore, that his decision must in no sense interfere with the sovereign rights of Poland, who must retain full powers regarding the conduct of her own foreign relations even if they were not in accordance with the foreign policy of Danzig; and that it was equally clear that the Versailles Treaty did not give Poland the right to impose a foreign policy on Danzig which was contrary to Danzig's own wishes or to her prosperity as a Free City.¹⁸

Recognizing that no one could foresee how the foreign relations of Danzig would develop, what affairs she would have to deal with, and whether these would or would not be opposed to the foreign

¹⁷ Decision of December 17, 1921 (*Decisions*, 1921, p. 70).

¹⁸ *Ibid.*, pp. 71-72.

policy of Poland, the High Commissioner decided to lay down certain definite principles, namely:

"I) That Poland when called upon by Danzig to conduct any of the foreign relations of the Free City, has the right to refuse the application if the matter involved is clearly to the detriment of the important interests of the Polish State.

"II) That Poland has no right to initiate and impose upon Danzig a definite foreign policy which is clearly opposed to the well-being, prosperity, and good government of the Free City. Moreover, it is apparent from the Polish statement of the case that she has no desire to do so.

"III) That on the request of the Danzig Government to conduct any foreign relations of the Free City, the Polish Government will, as fully agreed to in her own statement of the case, at once take cognisance of the demand, and will either carry out the wishes of Danzig without delay, and in a complete and loyal manner, or will inform the Government of the Free City as soon as possible, and in any case within a delay of thirty (30) days that the Polish Government is unable to carry out the wishes of the Danzig Government. Poland will also give her reasons for this refusal, and will suggest to the Danzig Government how far she is prepared to go, or what alternative she would accept, to meet the wishes of the Danzig Government in the matter."¹⁹

Both parties appealed from the High Commissioner's decision to the League Council but later withdrew their appeals during negotiations in Geneva. They agreed in May 1922 that Poland would not be obliged to give Danzig explanations as to her own foreign policy, and that Poland would always give the Free City as full an explanation as possible of her reasons for declining a request from Danzig or for proposing a different solution.²⁰

The exact status of Poland's conduct of the foreign relations of Danzig was later described in an Advisory Opinion of the World Court:

It is now common ground between Poland and the Free City that the rights of Poland as regards the conduct of the foreign relations of the Free City are not absolute. The Polish Government is not entitled to impose a policy on the Free City, nor to take any step in connection with the foreign relations of the Free City against its will.

On the other hand, the Free City cannot call upon Poland to take any steps in connection with the foreign relations of the Free City which are

¹⁹ *Ibid*, pp 72-73. [Crusen, *Der Pariser Vertrag*, pp 63-65.]

²⁰ *Zusammenstellung, 1920-1923*, pp. 222-23.

opposed to her own policy. As the High Commissioner said in his decision of December 17th, 1921, if Poland were obliged to do so, she would come under the domination of the Free City, and this was certainly not contemplated by the Treaty of Versailles.

The result is that, as regards the foreign relations of the Free City, neither Poland nor the Free City are completely masters of the situation. The Free City is entitled to care for her own interests and to see that nothing is done which is prejudicial to them. Poland is entitled to care for her own interests and to refuse to take any action which would be prejudicial to them.²¹

The principles laid down by the High Commissioner were particularly valuable to Danzig from a defensive viewpoint, as they determined her rights on the basis of principle. Her rights to positive action were more limited. Poland still enjoyed great advantages in practice because her actions or refusal to act could establish facts or situations which would remain in effect unless or until negated by the decision of the High Commissioner or the League Council, usually after a considerable period of time. On occasion, Poland's actions could result in a *fait accompli*, which could either not be undone at all or whose final undoing would prove useless because of the lapse of time. To some extent Poland shared this uncertainty, since her own actions and policies remained subject to veto by the High Commissioner or League Council.

DANZIG'S DIPLOMATIC CORRESPONDENCE

The process of applying the general principles governing Poland's conduct of Danzig's foreign relations disclosed a number of problems which needed straightening out.

One of the earliest questions submitted to the High Commissioner dealt with the manner in which Danzig's diplomatic correspondence should be conducted. Danzig claimed that letters emanating from the Senate and dealing with the foreign relations of the Free City should be addressed directly to the foreign state concerned and merely be marked "through the Diplomatic Representative of the Polish Republic." In that way the Danzig request could be conveyed by Poland to the foreign state by the addition of a forwarding letter without the delay which would be caused if Poland had to write a new letter explaining the whole case. Poland, on the other hand, claimed that Danzig must apply directly to the Polish government

²¹ Advisory Opinion on *Free City of Danzig and International Labour Organization*, Publications of the Permanent Court of International Justice, Series B, No. 18, p. 13. [Crusen, *Der Pariser Vertrag*, pp. 66-67.]

and not directly to a foreign state when she desired to enter into any negotiations with a foreign state.²²

The High Commissioner declared that he could quite understand that Danzig as an independent state was anxious to have her foreign relations conducted in such a manner as to indicate or even emphasize that independence, but that her rights in this connection were limited by the Treaty of Versailles as interpreted by the Treaty of Paris. He therefore decided, in accordance with the Polish view, that in any correspondence regarding the conduct of the foreign relations of Danzig the government of the Free City must address all communications directly to the Diplomatic Representative of the Polish government stationed in Danzig, acting as intermediary between the governments of Poland and the Free City.²³

The Free City appealed to the League Council against this decision but withdrew the appeal after the Polish Diplomatic Representative in Danzig had made the following declaration:

1. The Polish Government is ready to accept from the Danzig Government in the *German language* and *without translation* all correspondence concerning Danzig's foreign relations.

2. On the specific request of Danzig, Poland agrees to give to the Danzig Government all possible information concerning such correspondence as may result from a specific request of Danzig to conduct certain of the foreign relations of the Free City. In so far as possible the Polish Government will furnish the Danzig Government with copies of such correspondence.

3. The Polish Government, in such correspondence concerning the foreign affairs of the Free City as may result from a special request by Danzig, will explain that it is acting in view of the fact that it conducts the foreign relations of the Free City.²⁴

It was further agreed that the Free City was entitled to receive all documents addressed to her and dispatched through the Polish government. However, the Polish government had the right to withhold any document addressed to the Free City if the transmission of such a document appeared contrary to the political interests of Poland. Aside from very exceptional cases which were not expected to arise in practice, the Warsaw government would inform the Free City of the receipt of the document and the reasons for which it had been withheld.²⁵

²² Decision of November 28, 1922 (*Decisions*, 1922, p. 46).

²³ *Ibid.*, pp. 47-48.

²⁴ Agreement of February 1, 1923; *Zusammenstellung*, 1920-1923, pp. 262-64.

²⁵ *Ibid.*, pp. 324-26. [Crusen, *Der Pariser Vertrag*, pp. 70-71.]

The fact that a decision of the High Commissioner was at all necessary on this matter and that subsequently Danzig and Poland still found it necessary to reduce to writing rather specific and obvious regulations on the same points indicates the importance which both parties attached to anything related to their respective status, and that they did not trust each other beyond the written word.

It should be added that direct diplomatic correspondence was open to the government of Danzig in its communication with the High Commissioner, the Council, the Assembly, and the Secretariat of the League of Nations, and with the Permanent Court of International Justice.²⁶

TREATIES WITH POWERS OTHER THAN POLAND

Treaties with powers other than Poland fell into two classes: (a) those initiated entirely by the Free City and (b) those initiated by Poland and affecting the interests of the Free City. Article 6 of the Treaty of Paris which provided that Poland should conclude no treaty or international agreement affecting the Free City without previous consultation with her and that the High Commissioner should be notified of the result of such consultation applied to both groups of treaties.²⁷

The general principles governing the conduct of the foreign relations of Danzig applied to the negotiations of treaties. If, therefore, the Free City wished a certain treaty to be negotiated, the Warsaw government was to take cognizance of the demand at once and either to carry out the wishes of Danzig without delay and in a complete and loyal manner or to inform Danzig within thirty days that it was unable to do so. In the latter case, it was to give its reasons for this refusal and suggest to Danzig how far it was prepared to go or what alternative it would accept to meet the wishes of the Dan-

²⁶ J. H. W. Verzijl, "Die Rechtslage der Freien Stadt Danzig," *Ostrecht*, April 1926, p. 366. Poland also admitted the right of the Free City to address directly correspondence arising under the Hague Convention concerning international judicial intercourse, and forwarded through the Senate and the Polish diplomatic representative in Danzig (*Decisions*, 1922, p. 47). It was further agreed that the Polish concurrence in the Free City becoming a party to a convention which provides for direct correspondence or intercourse between the technical organizations of the contracting states "implies Polish consent to direct communication between the technical organizations of the Free City and those of other States" (Advisory Opinion of the World Court, *International Labour Organization*, p. 13).

²⁷ Decision of November 3, 1922 (*Decisions*, 1922, p. 45). To obviate any misapprehension as to whether this consultation had taken place or not, Danzig and Poland agreed on September 1, 1922, to employ a stereotyped form for notifying the High Commissioner of the result of the consultation. Either party might make the notification (*Zusammenstellung, 1920-1923*, pp. 318-20).

zig government in this matter. Poland had the right to refuse to negotiate a treaty if it was clearly to the detriment of the important interests of the Polish state, subject, naturally, to the decision of the High Commissioner and the League Council. In case Poland initiated the treaty, she did not have the right to impose upon Danzig a definite foreign policy opposed to the well-being, prosperity, and good government of the Free City.²⁸ In cases where the interests of the Free City appeared to be opposed to those of Poland the treaty did not need to be accepted by Danzig except where it became operative in Danzig territory as a result of other treaty provisions, for example, in customs matters.²⁹

Danzig had a right to become a contracting party to any convention the effects of which extended to her territory and nationals unless, as in the realm of customs affairs, Danzig was clearly bound by the engagement of the Polish government on her behalf.³⁰ This right of Danzig was an important one. It was declared after Poland had refused to make Danzig a contracting party to the German-Polish Upper Silesian Railway Agreement, claiming "that the interest which a treaty can have for Danzig is that it gives rights to and imposes obligations on Danzig which is not the case in this treaty since Danzig as such receives no rights direct and incurs no obligation directly or indirectly."³¹ This Polish claim was refuted by the decision of the High Commissioner, even while, as he stated, "it does not appear that Danzig has suffered in any way by not having been made a contracting party and while it is conceivable that no prejudice would ever occur to Danzig by the maintenance of the existing state of affairs."³²

The question whether through a certain treaty Poland was im-

²⁸ Decisions of December 17, 1921 (*Decisions, 1921*, pp. 72-73). Danzig and Poland agreed on May 17, 1922, that the words "opposed to the well-being, prosperity and good government of the Free City" should be understood as having the same purport as the terms of Article 29 of the Warsaw Agreement of October 24, 1921—"detrimental to the economic, national, social and religious interests of the Free City" (*Zusammenstellung, 1920-1923*, p. 220).

²⁹ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, p. 320); it also provided. "for practical reasons, an international agreement concluded by the Polish government might contain stipulations in which the Free City of Danzig is directly engaged as a contracting party, side by side with other stipulations which, without possessing these characteristics, involve an interest of the Free City. It is desirable that, when the occasion arises, the text of the international agreement to be concluded should make the contractual position of the Free City clear." *Ibid.*, pp. 320-22. See also Agreement of May 4, 1924, in *Zusammenstellung, 1924-1927*, pp. 103-4.

³⁰ Decision of October 18, 1924 (*Decisions, 1924*, p. 38).

³¹ *Ibid.*, p. 35.

³² *Ibid.*, p. 38.

posing upon Danzig a foreign policy which was detrimental to the well-being, good government, and prosperity of the Free City was submitted to the High Commissioner in the case of the treaty regarding direct judicial relations between the governments of Danzig and Germany. This treaty had been concluded between Danzig and Germany on August 27, 1920, that is, during the Temporary Allied Administration of Danzig.

High Commissioner Haking refused to go into the interesting question whether any treaty arranged by the Danzig authorities before Danzig was constituted a Free City was valid or not.³³ Holding that direct judicial relations between the governments of Danzig and Germany were foreign relations and therefore could be conducted only by Poland, he declared that the matter to be decided was if Poland, by refusing to allow Danzig to establish or maintain direct judicial relations with Germany, was imposing upon the Free City a foreign policy detrimental to her.³⁴ Danzig claimed that such a treaty was absolutely necessary for her welfare and pointed to similar arrangements between Germany and other states and between Danzig and Poland. The High Commissioner decided that Poland should give Danzig such facilities for arranging a treaty with Germany, dealing with judicial affairs, as she proposed to arrange with Germany herself.³⁵

It is interesting to note that Poland was unable to conclude any kind of a treaty for Danzig, or any treaty merely affecting the interests of Danzig, even if Danzig would have consented. If any treaty or international agreement, in the opinion of the Council of the League of Nations, was inconsistent with the provisions of the Treaty of Paris or with the status of the Free City, the High Commissioner had the right to veto it in so far as it applied to the Free City of Danzig.³⁶ This provision was necessary since the League

³³ Decision of December 18, 1921 (*Decisions*, 1921, p. 75). During the period of Allied Administration Danzig concluded three conventions with Germany (concerning the options question, administration of justice, and economic relations) and one with the Allied Administration of Memel (concerning the Temporary High Court for Memel and Danzig); see *Official Journal*, 1921, pp. 466-67.

³⁴ *Decisions*, 1921, p. 75.

³⁵ *Ibid.*, p. 77. Harder (*Danzig, Polen und der Völkerbund*, p. 80, n. 6) states that over five years later, at the end of 1927, such a treaty had still not been concluded because Danzig and Poland disagreed on the wording of the preamble.

³⁶ Such a veto shall be exercised "within a period of two weeks after the termination of the first session of the Council of the League at which the question could have been brought up for consideration, and in no case later than three months after the date upon which the text of the Treaty signed by the Polish Government shall have been notified in writing to the High Commissioner of the League of Nations," according to a recommendation to the Council by a committee consisting of the

had undertaken the protection of the Free City, although it obviously constituted a great restriction, in certain cases, upon the power of Poland to conclude treaties with foreign powers.

THE COMPETENCE OF THE POLISH DIPLOMATIC REPRESENTATIVE

The Treaty of Paris had provided in its Article I that "a diplomatic representative of the Polish Government stationed at Danzig shall act as intermediary between the Polish Government and the Government of the Free City." The government of Danzig claimed that his competence was limited to serving as an intermediary between the two governments,³⁷ while Poland claimed that she could use her "Commissioner General," as she designated him, as her representative in all respects and in all questions which dealt with the exercise of the rights accorded to Poland in the Free City.³⁸

An open dispute arose when the Polish diplomatic representative claimed the right to welcome foreign warships in Danzig in the name of his government. The High Commissioner rejected the Polish contention in full and decided:

- I. That the competence of the Diplomatic Representative of the Polish Government stationed at Danzig is limited as described in Article I of the Convention of Paris 9.11.1920, and that no other Article either of the Treaty of Versailles or of the Convention gave him any further powers.
- II. That the Polish Government has not the right either through its Diplomatic Representative at Danzig, or in any other way, to welcome officially, in Danzig waters or on Danzig soil, a foreign fleet which visits the Free City.

representative of Poland, the President of the Senate of Danzig, High Commissioner Haking, former acting High Commissioner Professor Attolico, the Director of the Legal Section, and the Director of the Administrative Commissions Section of the Secretariat, adopted by the Council on June 21, 1921 (*Official Journal*, 1921, p. 670).

³⁷ Decision of August 23, 1922 (*Decisions*, 1922, p. 24). [Crusen, *Der Pariser Vertrag*, pp. 19-30.]

³⁸ *Decisions*, p. 25. The Polish government insisted on calling her representative in Danzig the "Commissioner General of the Polish Republic" and his staff and office the "Commissariat." Danzig refused to use these designations, which she considered unjustified and merely another attempt by Warsaw to put her in the status of a dependency. The Senate consequently addressed him always as "The Diplomatic Representative of the Polish Republic," the term used in the Treaty of Paris.

This writer recalls a walk in 1936 along the shore in the seaside resort of Zoppot near Danzig with an official of the Department of Foreign Affairs of the Senate. When we met the Polish Diplomatic Representative, the Danzig official greeted him politely: "Guten Tag, Herr Minister!"

For a further discussion of the Polish Diplomatic Representative and for data on his staff, see below, pp 252-55; concerning Poland's early intention of sending only a "Resident" to Danzig, see above, p 90.

III. That if the Polish Government wish to welcome a foreign fleet in Danzig waters and on Danzig soil, the Danzig Government should be approached on the subject, not as a Polish right, but as a Polish request.³⁹

The High Commissioner's decision was subsequently replaced by an agreement providing that the Polish Diplomatic Representative had the right both to be paid an official visit by the commander of the warship on behalf of his government and to salute the ship in question either on board ship or at his official residence, *after* the commander had paid an official visit to the Senate and had been welcomed by it on behalf of the Free City.⁴⁰ Poland, therefore, succeeded in giving her diplomatic representative in Danzig a competence exceeding that of an intermediary between the two governments.

DANZIG'S REPRESENTATION AT INTERNATIONAL CONFERENCES

As both the Treaty of Versailles and the Treaty of Paris were silent on the question of Danzig's participation in international conferences, relations between the Free City and Poland were repeatedly put under considerable strain over this point. Decisions by the High Commissioner and consequent agreements resulted in certain rules and principles concerning Danzig's participation in international conferences, especially those of an economic nature.

In his decision of August 24, 1922, the High Commissioner reasoned that international congresses were essentially of the nature of foreign affairs and that therefore Danzig must be represented by the Polish government. Since, however, the Treaty of Paris laid down that nationals of Danzig should be attached to the Polish consulates in foreign cities where the Free City had important economic interests, it appeared only just to him that Danzig should be allowed to have representatives at international congresses. This was agreed to by Poland.⁴¹

The High Commissioner decided that Danzig did not have the right to separate representation and separate voting at international conferences but affirmed her right to send to such congresses one or more delegates who would be permitted to take part in any discussions of an economic nature which affected the well-being and prosperity of the Free City.⁴²

The complexity of the problem became fully apparent when the

³⁹ *Decisions, 1922*, pp. 28-29.

⁴⁰ Agreement of January 30, 1923 (*Zusammenstellung, 1920-1923*, pp. 252-54). [Crusen, *Der Pariser Vertrag*, pp. 26-30.]

⁴¹ *Decisions, 1922*, p. 31.

⁴² *Ibid.*

High Commissioner soon found it necessary to issue an interpretation of his own decision. He declared on October 7, 1922, that the question whether the discussion is an economic one or not and whether it affects the well-being and prosperity of the Free City or not, must be decided by an agreement on the spot between the Polish Commissioner at the Conference and the Danzig Delegate. Failing an agreement the Danzig Delegate will be unable to take part in the discussion, and the justice of the decision of the Polish Commissioner would then be subject to Article 39 of the Convention of 9th November, 1920, as a subsequent procedure but not as in any way affecting the progress of the Conference so far as Poland is concerned. In the event of an agreement the Danzig Delegate can take part in the discussion, bring forward any argument he pleases, provided they are confined to the economic matters agreed upon and affect the well-being and prosperity of the Free City, even if these arguments are opposed to the point of view of the Polish Commissioner at the Conference, otherwise it would be useless for the Danzig Delegate to take part in the discussions as the representative of the Free City.⁴³

An agreement between Danzig and Poland, concluded a few months later in Geneva under the auspices of the High Commissioner, supplemented his decision in certain ways which were not of major importance.⁴⁴

THE BERNE RAILWAY CONFERENCE

The difficulty of assuring presentation of Danzig's interests at international congresses was illuminated by the cases of the Berne Railway Conference of 1923 and the Stockholm World Postal Conference of the following year. According to the High Commissioner's decisions, Poland deprived Danzig on these occasions of her rightful participation or just share in the proceedings.

On the basis of the High Commissioner's decision of August 24, 1922, and the consequent agreement of January 30, 1923, already discussed, the Free City claimed that she was entitled to send a representative at the expense of the Polish government to the Railway Conference in Berne and requested Poland to agree to this proposal. Danzig received no reply to her request until after the conference had started, when a negative answer was received.⁴⁵

The High Commissioner was unable to accept the Polish contention that, because Poland owned part and administered the rest of the broad-gauge railways in the territory of the Free City, Dan-

⁴³ *Ibid.*, p. 32.

⁴⁴ *Zusammenstellung, 1920-1923*, pp. 244-50. [Crusen, *op cit.* pp. 67-68.]

⁴⁵ *Decisions, 1924*, p. 4.

zig had no reason to attend a railway conference. He held, instead, that railway matters were of interest not only to the owners of the lines but also to the governments of the countries in which those lines lay and were operated, and that they were obviously of particular interest to a place like Danzig. He further considered personal attendance at a conference a primary necessity for an interested party, a necessity which could not be adequately met by reports on the progress and results of the conference. Danzig did not complain, he pointed out, that she had suffered from the results of the conference but only asked to be allowed to be present to voice her interests in the manner previously provided by the High Commissioner's decision and the agreement reached upon this specific matter. Poland's arguments appeared to disregard the fact that attendance, under specified conditions, at international conferences, especially those of an economic nature, was a right which Danzig had under a decision of the High Commissioner, and that this right could not be unilaterally granted or withheld by Poland in accordance with her wishes or opinions on the subject unless the Free City asked the Polish government to do something clearly to the detriment of the important interests of the Polish state. This Poland herself did not suggest.⁴⁶

The High Commissioner therefore decided that the Free City was entitled to send a representative at the expense of the Polish government to the International Railway Conference at Berne in May 1923.⁴⁷ Since the decision was dated January 8, 1924, or some eight months after the conference had taken place, it was helpful to Danzig only as a further declaration of her rights, to be filed for future reference and support of her claims in similar cases.⁴⁸

THE STOCKHOLM WORLD POSTAL CONFERENCE

At the World Postal Conference meeting at Stockholm in August 1924, the Free City was represented but was prevented from taking part in the discussions because, under the rules of procedure, only delegates were allowed to speak, and Poland refused to appoint a Danzig representative to the position of delegate.

The complicated series of events and arguments was described at length in the High Commissioner's decision of November 10,

⁴⁶ *Decisions*, 1924, pp. 6-7.

⁴⁷ *Ibid.*, p. 7.

⁴⁸ In the agreement of May 4, 1924, Poland undertook, at the request of Danzig, to sign on behalf of the Free City the agreements concluded at the Berne Conference and to take the necessary steps to secure that the Free City should be specifically included by name among the parties to the agreements (*Zusammenstellung*, 1924-1927, p. 83). [*Crusen, Der Pariser Vertrag*, pp. 68-69.]

1924. Significantly he stated on that occasion: "I do not think there can be any doubt as to what the correct situation in this case should have been as every aspect of it had already formed the subject of decisions and agreements."⁴⁹ He held that the Stockholm Conference was an international conference and that consequently Danzig was entitled to have a delegate or delegates to represent her. In his words:

I think the Free City has a just cause of complaint in the fact that her representatives were not given the status they required to enable them to address the Conference. It is not as if this question had arisen at the last moment. The Polish Government were aware in May of the requests of the Senate and of the reason why they were made. I personally refused to give a decision on the hypothetical case submitted to me by the Senate which envisaged precisely the situation which arose, because I anticipated that the Polish Government being aware of the situation would take the appropriate steps to meet it, and because I understood the undertaking of the Polish Government to have been given with the intention of according the Free City a right which it could legally claim as I informed the Polish Government at the time.

I do not see what possible benefit can accrue to the Free City of attending such Conferences if her delegates are not put in a position of such equality with other delegates as the rules of procedure allow. The right given to the Free City to send delegates is in order to enable them to take part in and benefit by the work of the Conference, always subject to the limitations imposed by decision and agreement. These are sufficiently strict to prevent any serious conflict of opinion between Poland and Danzig, the more especially when it is remembered that the whole arrangement applies only to economic matters⁵⁰

In this case, the Free City, too, had clearly exceeded her rights though with less serious consequences. Her representative had addressed a letter on the subject of her grievance directly to the President of the Conference, and the Senate had telegraphically recalled its representatives; neither had previously made contact with the (Polish) Chief Delegate to the Conference; and the procedure, the High Commissioner stated, could not be described as anything but incorrect. He added:

the situation was, however, not improved by the letter of the Chief Delegate, purporting to set out the domestic relations of Poland and Danzig at International Conferences, since it must be clear how difficult, if not impossible, it would be to give an exact account of these relations in a letter consisting of some twenty-seven lines.⁵¹

⁴⁹ *Decisions, 1924*, p. 89.

⁵⁰ *Ibid.*, pp. 91-92

⁵¹ *Ibid.*, p. 92

Poland, he further declared, was not entitled to sign any agreements on behalf of the Free City—as she had done—after Danzig had withdrawn her representatives and shown by that act that she was unwilling to participate further in the Congress, even if an incorrect method had been adopted.⁵² He stated:

I cannot share the view of the Polish Government that the wishes of Danzig were treated in the most liberal way. The representatives of Danzig were prevented from taking part in the discussion of the conference by the simple process of not nominating them as delegates, although the Polish Government was aware that under the rules of procedure no one but delegates could speak. There was no sufficient reason for supposing that an International Congress would alter its rules of procedure to suit the convenience of one delegation, when those rules were drawn up in advance and known to all participants in the Congress. The alternative method of nominating the Danzig representative as delegate was one which could cause no disturbance to the procedure of the Congress and lay within the power of the Polish Government to put into effect at any moment.

From a perusal of the *procès-verbal* of the Conference it appears to me that verbal discussions formed an important part of the work of the Congress and that to be deprived of an opportunity of taking part in them was a serious obstacle to the representation of Danzig interests, which with its own postal administration and as a member of the Postal Union was closely and directly interested in the work of the Congress.

It also appears from the *procès-verbal* that the discussions were largely economic as was to be expected from the nature of the Congress and if political decisions took place in which it would have been against the interests of Poland to allow the Danzig representatives to take part, the head delegate could have prevented their speaking on this subject. The statement of the Free City that the Polish delegate admitted on several occasions that the discussions were economic is not now disputed by the Polish Government.⁵³

Poland herself suggested to the League Council at a later date that Danzig participate in the International Economic Conference and the International Conference for the Formation of an International Relief Union.⁵⁴ Judging by the absence of other disputes, Poland's conduct in these and other cases was correct.

DANZIG AND THE INTERNATIONAL LABOR ORGANIZATION

In May 1929 the Senate took steps toward the admission of the Free City as a member of the International Labor Organization,

⁵² *Decisions*, 1924, p. 93.

⁵³ *Ibid.*, pp. 93–94. [Crusen, *Der Pariser Vertrag*, pp. 69–70.]

⁵⁴ *Official Journal*, 1927, p. 418.

stating that it wished first to adhere to certain agreements prepared by the International Labor Conferences, and second that it was convinced that unless the Free City were a member of the Organization the effect of such adhesion would be merely that of a Danzig local legislative measure. At the request of the Polish member of the Governing Body of the International Labor Office, the question of Danzig's membership was placed on the agenda for the forty-seventh session of the Governing Body. It was decided at the following session that the question should be submitted to the World Court "which alone was capable of solving the difficult legal problem involved."⁵⁵

On May 15, 1930, the Council of the League of Nations therefore requested the World Court to give an Advisory Opinion upon the following question:

Is the special legal status of the Free City of Danzig such as to enable the Free City to become a member of the International Labor Organization?⁵⁶

The Court reasoned that

as regards the foreign relations of the Free City of Danzig, neither Poland nor the Free City are completely masters of the situation. The Free City is entitled to care for her own interests and to see that nothing is done which is prejudicial to them. Poland is entitled to care for her own interests and to refuse to take any action which would be prejudicial to them. . . . The arrangements now in force as to the representation of the Free City at international conferences, as to the conduct of correspondence and as to direct contact between technical organizations in the Free City and in other States, show that at the time when these decisions of the High Commissioner were given, or when the subsequent agreements were concluded, neither Party had in view the participation of the Free City in the work of the Labour Organization. These arrangements could not as they stand be made applicable to any such participation, and they cannot be regarded as applying to the circumstances which would arise if the Free City were admitted to the Labour Organization.⁵⁷

The Court continued:

The question whether the special juridical status of the Free City is compatible with membership of the Labour Organization must, there-

⁵⁵ Advisory Opinion, *Free City of Danzig and International Labour Organization*, Publications of the Permanent Court of International Justice, Series B, No. 18, pp. 7-8.

⁵⁶ *Ibid.*, p. 4.

⁵⁷ *Ibid.*, pp. 13-14.

fore, be considered without reference to the above arrangements, and must be dealt with on the footing that, as the result of the Treaty of Versailles, the conduct of the foreign relations of the Free City is entrusted to the Government of Poland, and that in consequence the Free City is not in a position to oblige the Polish Government to take any action in the conduct of those foreign relations which is contrary to the interests of Poland herself.

. . . . it is impossible to avoid the conclusion that some of the steps which a Member of the Labour Organization would take—some even which it might be bound to take—in pursuing the normal activities of membership would fall within the sphere of foreign relations. Such acts as the ratification of a draft convention or the filing of a complaint against another Member State for failure to observe the provisions of a convention must clearly belong to the field of foreign relations. The Free City as a member of the Labour Organization could not take any such steps itself. It would be obliged to use the Polish Government as its intermediary, and therefore in all such cases Polish consent would be necessary, because the Polish Government would be entitled to refuse to take these steps on behalf of the Free City if they were prejudicial to important interests of the Polish State.

. . . . the Court considers that the Free City of Danzig could not participate in the work of the Labour Organization until some arrangement had been made assuring in advance that no objection could be made by the Polish Government to any action which the Free City might desire to take as a Member of that Organization.

If such an arrangement were concluded between Poland and the Free City of Danzig, the fact that the conduct of the foreign relations of the Free City is entrusted to the Polish Government would not constitute an obstacle to the Free City becoming a member of the Labour Organization.⁵⁸

As the Court stated, any such agreement might be subject to veto by the High Commissioner of the League under Article 6 (2) of the Treaty of Paris and it therefore suggested that "it might be desirable that it should not be concluded without the concurrence of the Council of the League."⁵⁹

In the absence of such an agreement the Court felt "bound to answer the question upon which it is asked to give an advisory opinion on the basis of the existing situation." For these reasons, the Court, by six votes to four, was of the opinion that the "special legal status of the Free City of Danzig is not such as to enable it to become a Member of the International Labour Organization."⁶⁰

⁵⁸ Advisory Opinion, *Free City of Danzig and International Labour Organization*, pp 14-16.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.* [Crusen, *Der Pariser Vertrag*, pp. 66-67, 71, 552.]

PROTECTION OF DANZIG NATIONALS ABROAD

The protection of Danzig citizens in foreign countries would naturally fall to Poland as part of her conduct of the foreign relations of Danzig. It was, however, also specifically provided by treaty provisions that Poland should undertake this task and that protection should be assured to Danzig nationals on the same conditions as the protection of Polish citizens, provided, however, that the Danzig passports of such persons had been visaed by the representative of the Polish government in Danzig.⁶¹

DANZIG PASSPORTS

Danzig passports were issued and renewed by the authorities of the Free City. The Polish consuls or diplomatic representatives abroad might do likewise under certain conditions, receiving numbered Danzig passports for that purpose.

Before this agreement was reached on May 4, 1924,⁶² and especially before the High Commissioner's earlier decision of January 28, 1924,⁶³ Danzig passport matters had been in a troubled condition. When the early negotiations regarding the manner in which Polish authorities, especially consuls, were to assist in the issuance of passports to Danzigers abroad had led to no agreement, the Polish Ministry of Foreign Affairs ordered that Danzigers in foreign countries applying for passports be supplied with Polish passports. Other orders, intended for Danzigers in Poland, compelled the exchange of Danzig for Polish passports.⁶⁴ After the decision of the High Commissioner, which contained some strong remarks about Poland's actions, Danzig and Warsaw within a few months came to the agreement described above.

CONSULAR REPRESENTATION

The Free City enjoyed a limited right to consular activities in foreign countries. In those foreign cities where Danzig had important economic interests, one or more nationals of the Free City, placed at the disposal of the Polish government by the Free City,⁶⁵ were to be included in the staff of the Polish consulates. These of-

⁶¹ Treaty of Versailles, Article 104, paragraph 6, and, more specifically, Treaty of Paris, Article 2. [Crusen, pp. 72-74.]

⁶² *Zusammenstellung, 1924-1927*, p. 105 [Crusen, pp. 74-80.]

⁶³ *Decisions, 1924*, pp. 8-14.

⁶⁴ *Ibid.*, p. 8.

⁶⁵ This stipulation would prevent Poland from appointing to these positions Danzig nationals of Polish background who might sympathize more with Poland than with the Free City.

officials were responsible to the Polish government and, under the direction and superintendence of the Polish consul, were to be charged with matters especially affecting the interests of the citizens of Danzig.⁶⁶

These Danzig nationals attached to Polish consulates would represent at their locations the commercial interests of Danzig citizens and afford them protection as long as this could be done through consular communication with the local authorities. As soon as measures of protection reached the diplomatic stage, the Polish diplomatic representative abroad would have to take over this duty.

The costs of this consular as well as the diplomatic representation of Danzig abroad were to be borne by Poland.⁶⁷ Poland was not entitled to refuse to pay for the appointment of a Danzig consular attaché in a foreign city where Danzig had important economic interests, while it was incumbent upon Danzig to produce evidence that these economic interests actually existed in that particular foreign city. If Danzig should be unable to convince Poland of her claim to representation at a given place, the matter would be submitted to the arbitration of an independent authority in consular matters, to be nominated by the two parties or, if they could not agree upon the nomination, to be chosen by the High Commissioner.⁶⁸ It appears that in actual practice a Danziger was attached only to the Polish consulate in Hamburg.⁶⁹

Exequaturs for foreign consuls stationed in Danzig were issued by the Polish government in agreement with the authorities of the Free City.⁷⁰ Of the thirty-odd consular offices maintained in Danzig, the American was the first to be established, in December 1920, just one month after the establishment of the Free City.⁷¹ By 1930,

⁶⁶ Treaty of Paris, Article 3. [Crusen, *Der Pariser Vertrag*, pp. 81-86.]

⁶⁷ Treaty of Paris, Article 5. Danzig and Poland agreed on November 25, 1924, that this third party "should give a purely advisory opinion" (*Zusammenstellung, 1924-1927*, p. 107). [Crusen, pp. 110-11.]

⁶⁸ Decision of November 8, 1924 (*Decisions, 1924*, pp. 74-75).

⁶⁹ Mentioned *ibid.*, p. 71. According to the High Commissioner's statement in this decision, of November 8, 1924, "The question of Danzig consular attachés has been dragging on for some 2½ years." He added that Danzig had requested attachment of Danzig citizens to the following places: London, Antwerp, Riga, Reval, Helsingfors, Bucharest, Moscow, Berlin, Copenhagen, Stockholm, New York, Rotterdam, and Oslo. By 1932, Poland still had consented to the appointment of only one Danzig attaché, at the consulate in Hamburg, according to Carl Heinrich Lubowski, *Der auswärtige Dienst der Republik Polen* (doctoral dissertation, University of Gottingen, 1933), p. 226 n.

⁷⁰ Treaty of Paris, Article 4. [Crusen, pp. 89-110.]

⁷¹ Albert Brodersdorff (ed.), *Die Entstehung der Freien Stadt Danzig* (Danzig, 1930), p. 8.

eleven consuls general were stationed in the Free City—from Austria, Argentina, Belgium, Denmark, Finland, Germany, Greece, Guatemala, Italy, Turkey, and the Union of Socialist Soviet Republics. Twenty-five other governments maintained consulates in Danzig. In addition, Canada had an Emigration Agent in that city.⁷²

VISAS FOR FOREIGNERS

Foreigners were allowed to enter the Free City without a Polish visa unless the government of Danzig desired such a visa.⁷³ The Polish government had argued that, since it had agreed to undertake the conduct of the foreign relations of Danzig, Poland must have the right to give or withhold the visa requested by any foreigner wishing to enter Danzig; that otherwise she would be compelled to strengthen the guards on her frontier to keep out undesirable aliens; also that Poland was responsible for preventing Danzig from becoming the center of elements dangerous to the security of Danzig or of Poland, or to the peace of Europe.⁷⁴ The High Commissioner decided, however, in accordance with the view advanced by Danzig.⁷⁵

THE CONTROL AND DEPORTATION OF FOREIGNERS

The authorities of Danzig exercised control over foreigners in her territory, subject to the treaty rights of Poland.⁷⁶ Undesirable aliens might, therefore, be directed to leave Danzig and, if necessary, be arrested and deported.⁷⁷

It was agreed that generally Polish nationals would be expelled only under certain conditions which would secure them more favorable treatment than other foreigners.⁷⁸

⁷² *Danziger Statistisches Taschenbuch, 1930-31* (Danzig, 1931), p. 117 [Crusen, p. 110.]

⁷³ Decision of August 30, 1921 (*Decisions, 1921*, p. 23) [Crusen, p. 71.]

⁷⁴ *Ibid.*, pp. 19-20.

⁷⁵ *Ibid.*, pp. 19, 23.

⁷⁶ Treaty of Paris, Article 12; these treaty rights are referred to in Article 2 of the same treaty.

⁷⁷ Decision of December 16, 1921 (*Decisions, 1921*, pp. 60-69). Danzig procedure in this matter is described, *ibid.*, pp. 65-66. Poland claimed that the expulsion of Polish nationals "completely excluded Poland from free access to the sea through the Port of Danzig," while Danzig held that the "presence of thousands of foreigners" meant an increase in the number of unemployed and accentuated the existing shortage of housing facilities (*ibid.*, pp. 60-61).

⁷⁸ Agreement of August 17, 1922 (*Zusammenstellung, 1920-1923*, pp. 227-37, especially pp. 231-37). [Crusen, p. 186.]

FOREIGN LOANS

The Free City could contract foreign loans only after previous consultation with the Polish government. If Warsaw objected, the question might be submitted by the Free City to the consideration of the High Commissioner. It would be his duty to assure himself that the conditions of the loan were not inconsistent with the provisions of the Treaty of Paris or with the status of the Free City.⁷⁹ Foreign loans negotiated by a municipality or any other similar organization of the state also came under this provision. As the High Commissioner pointed out in his decision of August 22, 1922, permitting such a loan would mean granting to a foreign state a financial interest in the Free City.⁸⁰

⁷⁹ Treaty of Paris, Article 7; *Official Journal*, September 1922, pp. 677-78. [Crusen, pp. 137-44.]

⁸⁰ *Decisions*, 1922, p. 23.

The part played by the League of Nations and by Poland in the negotiations preceding a foreign loan contracted for by the Free City can be seen in *League of Nations. Danzig Municipal Loan*. Resolutions adopted by the Council of the League of Nations on March 14, 1925, with the Relevant Documents and Public Statements (C 204.M 63.1925 II).

For details of the supervision set up in connection with such a loan see the Report of the Trustee for the Municipality of Danzig Seven Per Cent Mortgage Loan of 1925, issued annually between 1926 and 1938 (last report: League of Nations document C.111.M.61.1938.II.A.F.1626) and the Report by the Trustee for the Free City of Danzig 6½% (Tobacco Monopoly) State Loan of 1927, issued annually between 1928 and 1938 (last report: League of Nations document C 239 M.138. 1938 II.A (F.1642).

The state and municipal loans of the Free City are listed in Appendix L, p. 367.

THE DANZIG-POLISH HARBOR BOARD

If nature had not destined Danzig to be an excellent seaport, the Free City with its bewildering variety of problems would not have existed. Her natural harbor, Neufahrwasser, is formed by the wide branches of the Vistula River and has been developed into a modern port since the turn of the century and especially since 1920, with up-to-date facilities extending over a water surface of approximately 2,200 acres and a waterfront of some 25 miles. Sheltered from the storms of the Baltic, and ice-free, the navigable channel with a depth of 32 feet is capable of accommodating all but the largest liners afloat and of handling some ten million tons of shipping annually.

When the Allied and Associated Powers established the Free City in 1920 with special rights and privileges in the port for Poland, it seemed as if that country had indeed secured the "free and secure access to the sea" promised her in Wilson's Fourteen Points. Defining the respective rights and obligations of Danzig and Poland in more detail required years. It was done through a protracted series of treaties, agreements, and decisions of the High Commissioners and of the Council of the League of Nations, with the usual accompaniment of lengthy negotiations, extended discussions, acute differences of opinion, and frequently disputes of the first order.

The struggle over the port went beyond ordinary jockeying for position by two parties engaged in the complicated process of working out the details of a partnership agreement that was not of their own choosing. Danzig had not wished to be separated from Germany, while Poland had desired to include her in the Polish territory rather than see her as a Free City. The cardinal point in the more important of all disputes was, therefore, the question of Danzig's independence—affirmed by one and contested by the other side. The character of the disputes was also deeply affected by the strong distrust of successive Polish governments with respect to Danzig's good faith and intentions, a distrust born of old-time antipathies toward Germany and strengthened by an incident of historical importance, the munitions strike of 1920. Taking place at a time when Poland was fighting for her national existence and felt dependent upon help from abroad, it demonstrated to her that her access to the sea was not so secure as she wished.

THE MUNITIONS STRIKE, JULY 22, 1920¹

At a critical hour in Poland's war with Soviet Russia, Danzig dock laborers refused to unload Polish ammunition and threatened to call a general strike of harbor workers if Polish workers were imported for the purpose. It is fairly well established that the strike was due to fear of possible consequences to Danzig in the event of a Russian victory over Poland, and also to a fairly strong undercurrent of sympathy for Soviet Russia, rather than to any active hostility toward Poland. As Morrow puts it, it seemed to the workers "that Pilsudski had been the aggressor in this new war and that he was now only incurring the penalty that in their opinion should be meted out to all militarists and imperialists." Moreover, the fact that they were Germans who had recently been separated "from their German fatherland at the insistence of Poland caused them to regard Polish misfortunes with less sympathy than they might otherwise have done." On the other hand, Danzig was bound by a recent Provisional Agreement with Poland² to afford her every assistance in the discharge and transport of all classes of goods, including war materials, arriving at the port and consigned to destinations in Poland,³ and it was commonly known that Poland's plight was desperate. The Russian armies were steadily advancing upon Warsaw, and imported ammunition was badly needed by the Polish forces.

Burgomaster Heinrich Sahn, the head of the Provisional Government, seems to have recognized the importance of the issue at stake:

He implored almost on bended knees a delegation from the dock labourers to resume work and unload the munitions. His appeal met with no response. Instead it nearly cost him his life. He was hustled out of his office in the Senate building and roughly treated in crossing the street to the opposite building which is now occupied by the *Volks-tag*. His great height alone saved him from being borne down and trampled underfoot by the enraged crowd that surged to and fro in the streets for hours. The small police force was inadequate to cope with the situation. In these circumstances there could be no question of any attempt on the part of the Danzig authorities to compel the recalcitrant

¹ This account follows Morrow, *Peace Settlement*, pp. 65-75; he bases his report partly on German and Polish literature (see his documentation) and partly on conversations with several members of the Provisional Government of Danzig.

² That of April 22, 1920.

³ See its Article 15, *Zusammenstellung, 1920-1923*, pp. 130-31. For Danzig this agreement was signed by Sir Reginald Tower; its Article 68 provided that it was to be ratified for Danzig by the Conference of Ambassadors.

dock labourers to unload the munitions. Any such attempt would have resulted in much bloodshed and possibly a revolution.

At that time Danzig was occupied by Allied troops and administered by an Allied Administrator, Sir Reginald Tower. After almost a week's delay, he ordered British troops to unload the ammunition into barges that took them to the Polish border under Polish military escort. The situation remained tense, while fear of a revolution spread among the upper classes. As a result of riots and demonstrations, due partly to the scarcity and high cost of food, Sir Reginald Tower declared that vessels laden with ammunition would be forbidden to enter the port, alleging that the Allied garrison was not strong enough to control the situation in the event of further riots. Shortly thereafter, the Constituent Assembly of Danzig forwarded a resolution to Sir Reginald requesting that Danzig be declared neutral in the Polish-Russian war, a request protested by Poland and denied by the Council of Ambassadors. Subsequently, some French troops from Memel were landed, and French, British, and American warships arrived in the port. On August 31 an Inter-Allied Commission came to investigate conditions in Danzig, and on the same day the local transport workers voted 2 to 1 to abandon the strike and to unload munitions for Poland. Locally, an episode in Danzig history had come to a close; but "the anger and dismay aroused in Poland by these events in Danzig was intense. 'Treason' was the least harsh of the many opprobrious terms applied to Danzig by an excited Poland that was then fighting for its very existence."

DIFFERENCE BETWEEN THE DANZIG AND THE POLISH OUTLOOK

As Morrow points out, this episode revealed clearly a fundamental divergence between the Danzig and the Polish attitude toward their mutual relationships. Poland wanted Danzig to serve her military and naval no less than her commercial purposes. Danzig, on the other hand, claimed she was a sovereign state with the right to formulate and control her own foreign policy, including the right to declare her neutrality. In the munitions strike Poland saw the threat of a permanent danger to herself in time of war, a danger which might imperil her future existence as a state. Her feeling of bitter disappointment and injury has often been expressed in Polish publications,⁴ and other utterances on the Danzig problem.

⁴ For instance, in Thadée Bierowski, *La Ville Libre de Dantsig et la guerre polono-bolchévique de 1920* (Danzig, 1932); Casimir Smogorzewski, *Poland's Access to the Sea* (Paris, 1927).

Among other serious consequences it caused or intensified Poland's determination to have a seaport on her own coast, completely under her control, a decision which resulted in the building of the port of Gdynia.⁵

Another consequence more favorable for Danzig was the resolution of the League Council of November 17, 1920, providing for the inclusion in the constitution of the Free City of an article declaring that without the previous consent of the League the Free City could not serve as a military or naval base, erect fortifications, or authorize the manufacture of munitions or war materials on its territory.⁶ Poland, on the other hand, in 1925 received from Danzig an area in her outer harbor, known as the Westerplatte, for the purpose of unloading and temporarily storing munitions of war.⁷

POLISH RIGHTS IN THE PORT

The munitions strike had taken place before Danzig was formally established as a Free City and before the question of the specific rights and obligations of Danzig and Poland in the port were clarified. This uncertainty extended over a period of years and, as far as Poland's commercial rights were concerned, centered on the bi-national institution known as the Harbor Board.

The Treaty of Versailles had provided in its Article 104 that a consequent treaty between Poland and Danzig should insure to Poland without any restriction the free use and service of all such waterways, docks, basins, wharves, and other works within the territory of the Free City as were necessary for Polish imports and exports, also the control and administration of the Vistula River and the whole railway system except such street and other railways as served primarily the needs of the Free City. Poland further was to have the right to develop and improve the various means of communication mentioned, as well as to lease or purchase through appropriate processes the land and other property necessary for these purposes.

The Treaty of Paris of 1920 deviated considerably from this provision of the Peace Treaty, greatly curtailing certain rights originally assigned to Poland. Instead of gaining complete control of the port and waterways, she was allowed only to share that control with Danzig on terms of equality.

⁵ See below, pp. 130-38.

⁶ See above, p. 68.

⁷ See below, p. 204.

THE ESTABLISHMENT OF THE HARBOR BOARD

The control, administration, and exploitation of the port and waterways of Danzig, of the railway system especially serving the port, and of all property and establishments employed in such exploitation were assigned by the Allied Powers to the Danzig Port and Waterways Board, commonly known as the Harbor Board.⁸ This was done over the strong protest of Poland, who had claimed complete control for herself.⁹ The Harbor Board was given the duty of assuring to Poland the free use and service, without any restrictions and so far as might be necessary for Polish imports and exports, of the port and the various means of communications just mentioned; also, of taking all necessary measures to assure the development and improvement of the port and means of communication in order to meet all the requirements of this traffic.¹⁰

According to Article 19 of the Treaty of Paris, the Board was to be composed of five Polish and five Danzig commissioners chosen, by the Polish government and the Free City, respectively, from representatives of the economic interests of the two states. In addition, a president was to be chosen by agreement between the two governments—provided such agreement could be reached. If they did not agree within a month after the treaty had gone into effect, or after the occurrence of a vacancy in later years, the League Council was to appoint a president of Swiss nationality.¹¹ The president was appointed for three years and was eligible for reappointment. It was his job to preside over the discussions of the Harbor Board and to endeavor to promote an agreement between the parties, voting only after he had exhausted all possible means of bringing about such an agreement. The wording of Article 19 seemed to limit the action of the president to deciding in favor of either the Danzig or the Polish contention and then casting the decisive vote in case there was a disagreement between the parties. Actually, he was able

⁸ Article 14, Treaty of Paris. Article 18 provided for the continued existence of the free zone in the port, under the control of the Harbor Board. [Crusen, *Der Pariser Vertrag*, pp. 229-429.]

⁹ See Geneviève Levesque, *La situation internationale de Dantzig* (Paris, 1924), pp. 42-43, 58-59, and Julian Makowski, *La situation juridique du territoire de la Ville Libre de Dantzig* (Paris, 1925), p. 9. The Harbor Board must control the whole of the Vistula River within the territory of the Free City, according to the High Commissioner's decision of September 1, 1921, rather than just a part of it, as claimed by Poland (*Decisions*, 1921, pp. 24, 28).

¹⁰ Articles 26, 28, Treaty of Paris. [Crusen, pp. 392-429.]

¹¹ Of the four presidents, the first three were Swiss citizens and the fourth was a Netherlander (see list in Appendix G). The League Council stated expressly that its appointment of a Harbor Board president did not make him an official of the League (*Official Journal*, 1921, pp. 158 ff.).

to make proposals of his own which in many cases were accepted by the board members. This practice was never criticized by the High Commissioner or the League Council, since it was the only way of allowing a normal flow of board transactions.¹²

WHY THE BOARD WAS CREATED

In his decisions of September 1 and December 6, 1921, High Commissioner Haking briefly discussed the reasons for the creation of the Harbor Board. He stated:

It is a well-known fact that when this treaty [the Treaty of Paris] was negotiated it was found that the Polish demands for the "free use and service" of the Harbour of Danzig were so opposed to the Danzig demands as a "Free" City, that the Allies adopted a compromise by the creation of the Harbour Board to ensure this "free use and service" of the Harbour to Poland without interfering with the title "Free" which they had already given to Danzig. The result of this Convention was that almost the whole of the objects mentioned in Article 104 [of the Treaty of Versailles] were to be carried out by the Harbour Board and not by Poland.¹³

He concluded that it was only natural and right that Poland should require guaranties for her free access to the sea but that he was unable to accept the Polish claim that the Free City of Danzig had been created exclusively in the interests of Poland or solely with the object of assuring to Poland free access to the sea. If this had been the case, he declared, Danzig would have been handed over to Poland together with the province of Posen and the Corridor.¹⁴

Haking's successor, High Commissioner MacDonnell, declared that he could find nothing in the Treaty of Versailles or the Treaty of Paris to support the Polish argument that Poland had been given direction of the port.

Had such been the intention, the Harbour Board would either not have been created at all or it would not have been composed of an equal number of Danzig and Polish citizens, with a neutral President to give a casting vote. *The Port of Danzig is not less essential to the continued existence of the Free City of Danzig, which was created by the Allied and Associated Powers, than it is to that of Poland, a fact recognized by the parties to the Treaty of Paris as is shown by the constitution of the Harbour Board. The Board's obligations are not confined to the*

¹² Nicolas de Weck, *La condition juridique du Conseil du port et des voies d'eau de Dantzig* (Paris, 1933), pp. 116-17; also Matschke, *Die Grundlagen des internationalen Statuts von Danzig*, pp. 96-97. Dr. de Weck was secretary-general of the Harbor Board for several years. His book is hereafter cited as *Conseil de port*.

¹³ Decision of December 6, 1921 (*Decisions, 1921*, p. 47).

¹⁴ *Decisions, 1921*, pp. 46-47; see also decision of September 1, 1921, *ibid.*, p. 26.

service of Poland to the exclusion of Danzig's interests. It is the duty of the Board to further and reconcile by the means at its disposal the economic interests of both parties in the administration and exploitation of the Port of Danzig. The duties which are laid on the Harbour Board viz-a-viz Poland are laid down in Article 26 of the Convention of 9/11/1920 [the Treaty of Paris] The guarantees that Poland has for the performance of these duties are:

- a) Her representatives on the Harbour Board
- b) The neutral President of the Board
- c) The right of appeal under Article 39 of the Treaty of Paris and of Article 103 of the Treaty of Versailles.¹⁵

Article 26 of the Treaty of Paris, and Article 28, which provides that at all times and in all circumstances Poland should have the right to import and export via Danzig goods of any kind whatever not prohibited by Polish law, were capable of wide interpretation and weighed heavily in favor of Poland. They served to effectuate the free and secure access to the sea to which the Peace Treaty had entitled her. They did not, however, annul the articles giving control of the port and its facilities to the Harbor Board and, according to High Commissioner Haking, had to be applied in conformity with them.¹⁶

THE ORGANIZATION OF THE BOARD

The Harbor Board was divided into five sections, each composed of one Danzig and one Polish member of the Board, and was entrusted with the direction and supervision of various phases of the port activities. Their wishes and orders were executed by one commercial and one technical director, who were responsible for the administration of the port and whose specific competences were indicated by their respective titles. Customarily one of them was a Pole and the other a Danziger. The directors, in turn, were assisted in their work by a number of officials who were in charge of pilotage, construction work, waterways, wharves, etc.¹⁷

The Board had to retain as far as possible the officials, employees, and workers engaged in the services of the port, waterways, and railways, under its administration at the time it was established. In

¹⁵ Decision of April 29, 1923 (*Decisions*, 1923, pp. 7-8). Italics supplied by the present writer.

¹⁶ Decision of October 27, 1922 (*Decisions*, 1922, p. 36).

¹⁷ Nicolas de Weck, *Conseil du port*, pp. 119-23; Hubert Furstenau, *Der Ausschuss für den Hafen und die Wasserwege von Danzig* (doctoral dissertation, University of Wurzburg, 1927), pp. 38-39. Hereafter cited as *Der Ausschuss*. [Crusen, pp. 250-71.]

the employment of new officials and workmen, no discrimination was to be exercised against Polish nationals.¹⁸ In fact, Danzig and Poland agreed that preference should be given to Polish nationals in filling vacancies both in the superior and in the subordinate staff until the proportion of Polish and Danzig citizens in each administrative branch become equal. When that proportion was reached, it was to be maintained.¹⁹ The officials and employees of the Polish delegation on the Board enjoyed the same legal position in Danzig as those of the Polish government stationed in that city.²⁰

THE STATUS OF THE BOARD

The port and waterways of Danzig were part of the territory of the Free City and consequently subject to her sovereignty, although the Harbor Board enjoyed a special position.²¹

According to the High Commissioner, its status was that of an economic organization, created by the agreement between Danzig and Poland, for exploiting the port and guaranteeing its facilities for the import and export trade of Poland, in compliance with the treaties of Paris and Versailles. That the Board had a special entity and a position separate from the two states was clearly shown in Articles 19 and 20 of the Treaty of Paris, particularly in the provisions of Article 20 to the effect that the Board "shall come to an understanding with the Polish Government." The Board was not in any respect subordinate either to the Free City or to Poland,²² nor did it have any distinct nationality.²³

Danzig and Poland agreed expressly that, within the limits of the functions assigned to it, the Harbor Board was a body inde-

¹⁸ Article 20, Treaty of Paris. [Crusen, *Der Pariser Vertrag*, pp. 272-94.]

¹⁹ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 298-300).

²⁰ Agreement between Danzig and Poland of November 24, 1922 (*ibid.*, p. 113); see below, pp. 251-52.

²¹ Nicolas de Weck, *Conseil du port*, p. 257. [Crusen, pp. 267-70.]

²² Decision of April 29, 1923 (*Decisions, 1923*, pp. 8-9). See also Furstenau, *Der Ausschuss*, pp. 25-31. Dr. de Weck (*op. cit.*, pp. 233-34) calls the Board an "autonomous corporation under public law" that enjoys an international personality "whose status can perhaps be compared with that of the European Danube Commission." Furstenau (pp. 30-31) makes a comparison of the Danube Commission and the Harbor Board, as does Matschke (*Die Grundlagen des internationalen Statuts*, pp. 104-5), who adds comparisons with the Rhine, Elbe, and Oder commissions.

²³ Statement by the High Commissioner in the decision of December 13, 1923 (*Decisions, 1923*, p. 36).

pendent of both governments, whose interests were safeguarded by their respective delegations on the Board and whose rights were protected by the power of each government to appeal decisions of the Harbor Board to the High Commissioner.²⁴ It was further provided that in cases where the Board was a defendant in a civil suit the plaintiff was allowed to have the case tried either by a Danzig tribunal or by a Polish tribunal in Poland; in each case the Danzig law was applicable. A special agreement was to settle the execution, in the territory of the Free City, of pertinent judgments by Polish courts.²⁵ The Harbor Board did not enjoy rights of sovereignty. Any by-laws or regulations which it considered necessary in the interest of the port were given legislative effect by the government of the Free City, which had to accede to the written demands of the Board provided the regulations asked for were not contrary to the Constitution and the laws of the Free City. Any judicial cases resulting from offenses against the regulations were tried in the courts of Danzig.²⁶ The Board was entitled to make certain other demands, for instance, in regard to expropriations.²⁷

The official languages of the Board were German, Polish, and French,²⁸ the last-named serving as a "neutral language, or one of compromise."²⁹ The Danzig members of the Board enjoyed privileges and diplomatic immunities in the territory of Poland, as did the Polish members in the territory of the Free City and the president of the Board in both states.³⁰ Its vessels were entitled to fly at the stern a service flag of Harbor Board design, a combination of the Danzig and the Polish arms.³¹

²⁴ Agreement, dated September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 292-94).

²⁵ *Ibid.*, p. 296.

²⁶ Decision of June 6, 1923 (*Decisions, 1923*, p. 31); see also *Official Journal, 1925*, pp. 570 ff., and annex 750 a, p. 475, and Matschke, *Die Grundlagen des internationalen Statuts*, p. 100.

²⁷ Article 25, Treaty of Paris. [Crusen, pp. 388-92.]

²⁸ Decision of December 5, 1922 (*Decisions, 1922*, pp. 49-51, and *Zusammenstellung, 1920-1923*, pp. 118-19).

²⁹ Nicolas de Weck, *Conseil du port*, p. 111.

³⁰ Agreement between Danzig and Poland of November 24, 1922, *Zusammenstellung, 1920-1923*, p. 110.

³¹ The High Commissioner made this decision over the contention of Danzig that according to international usage the only flag which can be flown at the stern was a nationality flag and that this must be the Danzig flag in cases of vessels whose home port was Danzig. Poland had sided with the decisions of the Harbor Board providing for its own flag. Decision of December 13, 1923 (*Decisions, 1923*, pp. 36-37).

THE RIGHT OF APPEAL

Both Poland and Danzig had the right of appeal to the High Commissioner against the decisions of the Harbor Board. The two governments also agreed in 1924 that either one might call upon the other to carry out any obligation that resulted from the economic and financial demands addressed to it by the Board on the ground of either the general treaties in force or special agreements existing between the Board and the state in question. If one government met with the refusal of the other, it would be considered that a difference had arisen, and this could be submitted to the High Commissioner's decision.³²

THE HARBOR POLICE

Prior to 1933 the necessary harbor police was furnished to the Harbor Board by the Senate; it remained a part of the police force of the Free City but was placed under the direct control of the Harbor Board. If the Board considered it necessary to give any of its own officials police status, the Senate was to appoint them auxiliary police officials.³³

The police force consisted of two groups, dealing with navigation and safety matters, respectively. Its total strength was about 120 men, including the pilots, who were auxiliary officers.³⁴

The harbor-police problem was the subject of active disputes for over ten years. Danzig held that she was responsible for law and order in the Free City and that consequently she could not give up control of the executive force in any part of its territory. Poland, on the other hand, maintained that she would be debarred from enjoying the economic rights insured her by the Harbor Board as long as the Free City had the power of arbitrary interference in the port by means of her police.³⁵

The situation continued on this *de facto* basis until February 1933, when Danzig decided to police the port directly with her own force under the order of the Danzig authorities. Poland protested against this as "direct action" but failed to win the support of either the High Commissioner or the League Council.³⁶ In June 1934 the

³² Articles 25 and 29, Treaty of Paris. [Crusen, *Der Pariser Vertrag*, pp 388-92.]

³³ Decision of June 6, 1923 (*Decisions, 1923*, pp. 27-32); see also decision of November 10, 1924 (*Decisions, 1924*, pp. 95-97); Nicolas de Weck, *Conseil du port*, pp. 96-100; Furstenau, *Der Ausschuss*, pp. 40-43.

³⁴ Nicolas de Weck, *op. cit.*, pp. 99-100.

³⁵ *Decisions, 1923*, p. 27

³⁶ *Official Journal, 1933*, pp 629-30, 641-47.

Nazi government and Poland concluded an agreement providing for a set of harbor regulations and a harbor police of twenty-four men, to be employed by the Harbor Board, consisting of an equal number of Danzigers and Poles, nominated by the respective delegations to the Board, and commanded by the port's chief pilot. The Free City was to grant them the status of auxiliary police.³⁷

THE BOARD PROPERTY

The Harbor Board owned a considerable amount of property formerly belonging to Germany. It possessed the right to acquire or lease such additional movable and immovable property in the territory of the Free City (not only in the port itself)³⁸ as it might deem necessary for its functions. The Free City undertook to carry out the measures necessary for giving effect to the decisions of the Board, and in particular to proceed to any necessary expropriations.³⁹

The High Commissioner decided on October 27, 1922, that the Harbor Board when contemplating the lease of any of its property must apply the following principles:

1. That it is necessary not only to facilitate but also to attract Polish imports and exports through the Port of Danzig, either by ministering their own [the Harbor Board's] property themselves or by leasing a part of their property to a tenant of any nationality who is likely to facilitate and attract these imports and exports.
2. That Polish imports and exports demand more facilities than Danzig imports and exports, partly because the Polish trade is a great advantage to the Free City and partly because Danzig imports and exports are already well provided for through the agency of existing and long-established Danzig traders and firms.⁴⁰

The High Commissioner decided further that if any Harbor Board property was to be leased, a tenant had to be selected who, owing to the nature of his trade, his commercial status, and other conditions, was most likely to improve the activity of the port and to facilitate its exploitation. If a firm of Polish nationality competed with a Danzig firm, and both were equally desirable as tenants, preference was to be given the Polish trader.⁴¹ Naturally, because of this decision and because of the economic importance of the large Polish

³⁷ *Zusammenstellung, 1933 und 1934*, pp. 252-61. For a discussion of the "droit de police," see Nicolas de Weck, *Conseil du port*, pp. 96-100, and Matschke, *Die Grundlagen des internationalen Statuts*, p. 102.

³⁸ Treaty of Paris, Article 25; *Decisions, 1922*, p. 36.

³⁹ Article 25, Treaty of Paris [Crusen, pp. 388-92.]

⁴⁰ *Decisions, 1922*, p. 40.

⁴¹ *Ibid.*

hinterland, the Polish influence in Danzig continuously increased.⁴²

A sufficient portion of Harbor Board property was to remain under its direct control and administration to insure fulfillment of its responsibilities toward Polish imports and exports, including those of the Polish government, and to insure that facilities would remain for temporary accommodations and those required by Danzig or Polish merchants who had no agencies or establishments in the port itself.⁴³

THE BOARD'S FINANCES

Under Article 23 of the Treaty of Paris the Board received the right to collect all dues, taxes, and receipts arising from the administration of the port, waterways, and railways under its control, and to defray all costs of upkeep, control, and exploitation, improvement, and development. All profits and losses were to be divided between the Free City and Poland in proportions to be determined by the terms of a financial convention.

Disputes over budgetary procedures and the financial contributions of Danzig and Poland were settled by a 1923 decision of the High Commissioner⁴⁴ on a "provisional" basis, which, however, lasted some ten years. In 1934 the two states agreed formally that the Board would endeavor to cover expenditures by its own revenues whenever possible, keeping in view the public interests which it had to consider. Deficits were to be made up in equal shares by Danzig and by Poland; any surplus was to be divided equally. Both Danzig and Poland were free to appeal to the High Commissioner respecting the Harbor Board budget. At the same time the previously disputed right of the Board to contract loans for its pertinent purposes was formally acknowledged.⁴⁵ The three-year agreement was to last until 1937 and to be extended thereafter automatically for a year at a time unless contrary notice was given by either party six months previously.⁴⁶

⁴² Furstenuau, *Der Ausschuss*, pp. 23-24.

⁴³ *Decisions*, 1922, p. 40.

⁴⁴ Dated April 29, 1923 (*Decisions*, 1923, pp. 4-12).

⁴⁵ *Zusammenstellung, 1933 und 1934*, pp. 240-47. Under the High Commissioner's decision of May 24, 1923, the Harbor Board had the power to contract loans. Poland had appealed this decision to the League Council, but in 1924 she concluded an agreement with Danzig to the effect that the Board might contract one or more loans to the total amount of 4,500,000 Danzig gulden (the equivalent of \$900,000) for the financing of certain projects. The final decision of the League Council on the fundamental question of the Board's power to contract loans was postponed, and was never made by that organ (*Decisions*, 1923, pp. 24-26; *Zusammenstellung, 1924-1927*, pp. 89-90).

⁴⁶ *Zusammenstellung, 1933 und 1934*, p. 246.

EMIGRATION

The Board was given the task of taking all necessary measures to assure, in agreement with the Polish government, the free passage of emigrants and immigrants from or to Poland. No shipping company or other organization, company, or private person might engage in any service of emigration or immigration from Poland without the authorization of the Polish government.⁴⁷

While Danzig was still under Allied administration she agreed to provide the Polish government with a number of barracks, located in the former navy munitions depot, for the use of returning Polish emigrants.⁴⁸ After an early disagreement, both parties decided in 1923 to accept the proposal of the Harbor Board president that in matters of immigration and emigration the sanitary and quarantine police of Danzig should be subject to the Harbor Board. The Polish government contended that a re-examination of the emigrants by the Danzig authorities was not admissible, since they would have already been subject to the sanitary measures of Polish authorities in Polish territory; on the other hand, Danzig pointed to her obligations under existing governmental and international regulations.⁴⁹

Poland's surplus population moved to foreign countries in large numbers, especially to the United States and France, and also to Germany, largely as migratory agricultural workers who returned home during the winter months. Poland's emigration was deeply affected by the reduction in the Polish quota under American immigration legislation from 21,076 to 5,156 and by the decrease of Polish emigration to France from 55,000 workers in 1923 to only 12,000 the next year. Migration to Germany again increased at the end of 1923, when economic conditions in that country began to improve after the peak of her inflationary period.⁵⁰

POLISH SHIPS AND THE HARBOR

In 1921 the Polish government claimed the right to treat Polish ships in the harbor as if they were in a Polish port. Holding that the Polish claim was opposed not only by the rights of Danzig as a state but also by those given to the Harbor Board, that it was not

⁴⁷ Article 24, Treaty of Paris. [Crusen, *Der Pariser Vertrag*, pp. 385-87.]

⁴⁸ Provisional Agreement of June 2, 1920 (*Zusammenstellung, 1920-1923*, p. 181).

⁴⁹ Agreements of August 3, 1923, and September 1, 1923; *Zusammenstellung, 1920-1923*, pp. 271-73, 300-301.

⁵⁰ Furstenuau, *Der Ausschuss*, pp. 71-72.

supported by the Treaty of Versailles or the Treaty of Paris, the High Commissioner decided that the Board must retain its full administrative powers and activities and that Polish ships were subject to the administration of the Board and to the Danzig tribunals and authorities like all other vessels, Danzig or foreign, using those waters. Since the interests of Danzig were so closely allied to those of Poland in all questions of shipping, the High Commissioner could see no reason why the government of Danzig should not by agreement between the two states give more favorable terms to Polish vessels than to others using the port.⁵¹

THE RAILWAYS IN THE PORT

The Treaty of Versailles⁵² and the Treaty of Paris⁵³ referred to three different administrators and owners of railways within the territory of the Free City—the Polish government, the Free City, and the Harbor Board. Since Danzig and Poland failed to come to an agreement regarding the railway situation, the High Commissioner had to tackle the problem. He decided that the ownership, control, administration, and exploitation of the existing railways and all their properties and establishments which especially served the port belonged to the Harbor Board. The ownership, control, et cetera, of all other existing broad-gauge railways and the railway administration office (*Eisenbahndirektion*) went to Poland under Article 25 of the Treaty of Paris, while the tramways and narrow-gauge railways were left to the Free City.⁵⁴

Because of the practical importance—both administratively and financially—of having only one administrative system for such a small railway organization, the High Commissioner decided further that the Harbor Board, while retaining ownership of the railways allotted to it, was to make use of the existing Polish Railway Administration for carrying out the Harbor Board's work of control, administration, and exploitation. For this purpose three delegates appointed by the Harbor Board were to be attached to the Railway Administration in order to convey to it the Board's wishes and requirements; the Railway Administration in turn was to do its utmost to fulfill them. The latter also was to collect all revenues from the railways belonging to the Harbor Board and to defray all ex-

⁵¹ Decision of December 6, 1921 (*Decisions, 1921*, pp. 51–53)

⁵² Article 104.

⁵³ Articles 20 and 21. [Crusen, *Der Pariser Vertrag*, pp. 272–375.]

⁵⁴ Decision of August 15, 1921 (*Decisions, 1921*, pp. 15–16); a railway map is attached to the decision.

penses of upkeep, control, improvement, and similar matters.⁵⁵ Danzig at first appealed against this decision but soon came to an agreement with Poland along these lines.⁵⁶

In spite of controversies over the control and exploitation of the harbor, the volume of shipping greatly increased. Apparently the complicated Harbor Board system was workable in the face of many adverse factors. It was a development in the right direction—toward international administration of a disputed area that was characterized by economic and technical problems adversely affected by intense and conflicting national considerations.

But, as the old storm centers cleared away, new clouds arose on the horizon. While the lawyers and diplomats had concentrated on the interpretation of treaty rights, Gdynia had changed from a sleepy fishing village to a busy port. Its rapid growth gave birth to new problems and, as one might expect, to new disputes.

⁵⁵ *Ibid.*, pp. 16-17. The Harbor Board also retained ownership of half of the locomotives and freight cars formerly belonging to the German government. See Matschke, *Die Grundlagen des internationalen Statuts von Danzig*, p. 98, n. 56, and his references to the advisory opinions of Sir John Fischer Williams and M. Hostie in *Sammlung der Dokumente zum Rechtsstreit Danzig-Gdengen*.

⁵⁶ Agreement of September 23, 1921 (*Zusammenstellung, 1920-1923*, pp. 79-87).

GDYNIA — RISE OF A RIVAL

The Free City's concern over the boom of her neighbor and competitor can be appreciated only if one takes full account of the economic aspects of the complicated situation. International commerce had been the lifeblood of Danzig in all periods of her prosperity, and whatever local industries existed were closely related to it.

DANZIG'S INDUSTRY AND COMMERCE

Of all the local industries, shipbuilding was the most important. The Imperial Naval Yard specialized in building submarines, while the privately-owned Schichau Yards had won fame for building large ocean liners and warships, including the two ships named "Columbus," of 32,500 tons.¹

Under the Free City regime, the former Naval Yard went into the possession of the International Shipbuilding and Engineering Co., Ltd., of whose subscribed capital, 30 per cent was British, 30 per cent French, and 20 per cent Danzigers, and 20 per cent Polish.² Since Germany had been the main source of orders, the shipyards suffered an economic near-collapse as a result of the separation.³

The famous and widely exported *Goldwasser*, a liqueur containing floating goldleaf, was one product of Danzig's many distilleries. Amber factories processed that valuable substance, found mostly in East Prussia. There were also chemical plants, breweries, sugar refineries, chocolate factories, glassworks, and small oil refineries.⁴

GROWTH OF THE PORT

In volume, the traffic in the harbor of Danzig increased tremendously after 1921. In 1912, which had been the most favorable pre-war year, almost 3,000 ships, with a net tonnage of 2,000,000

¹ Eric Keyser, *Danzigs Geschichte*, p. 242. The first ship of that name became the "Homeric" when it was handed over to England after the first World War; the second, of equal size, built in 1922, served German commerce well until the second World War sealed its fate. In December 1939 it was scuttled and burned off the coast of Florida to avoid capture by an English cruiser, and most members of the crew were interned by the United States (*New York Times*, December 20, 1939; Jan. 5, Feb. 4, April 8, Dec. 20, 1940).

² H. Martin, *The Political Status and the Economic Importance of the Free City of Danzig* (Danzig, 1926), p. 14.

³ A. Proeller, *Wirtschaftsprobleme der Freien Stadt Danzig* (Danzig, 1929), p. 27.

⁴ Keyser, *Danzigs Geschichte*, pp. 242, 277; Proeller, *op. cit.*, p. 27.

tons, entered and left the port. By 1925 the traffic had increased 90 per cent over 1912.⁵ By 1928 the number of ships had increased to 7,000 and the tonnage to 8,000,000, or four times as much as in the best pre-1914 year. The favorable position of Danzig becomes even more apparent when her trade growth is compared with that of other German ports on the Baltic. In 1913, Danzig was fourteenth among the Baltic ports as measured by the tonnage of ships entering her harbor; in 1925 she had risen to third place. In 1913, she was fifth among German ports in the amount of goods handled; and from 1926 to 1933 she stood second only to Hamburg.⁶

After reaching a tonnage total of 8,000,000 or more each year between 1928 and 1931, inclusive, Danzig shipping experienced a sudden and drastic drop to a low of 5,000,000 tons in 1933, after which traffic again increased to somewhat over 7,000,000 tons.⁷

THE QUESTION OF ECONOMIC BENEFIT

While the shipping-traffic figures for the Danzig harbor quadrupled and aggregate goods traffic tripled pre-war figures, the economic benefits derived from the turnover are extremely difficult to measure. The Germans will prove elaborately and with a vast amount of print and paper that the alleged profits were illusory, while the Poles in the same way will quote statistics to show that Polish trade brought great prosperity to Danzig.

Neither party is entirely wrong in these apparently contradictory claims. The port of Danzig never handled so many goods or ships as in the years after 1921.⁸ However, the Danzigers claimed that profits in commerce depend as much upon the quality of goods as on their quantity, and that volume as such is no indication of the amount of profit derived from handling them.⁹ When, after the British coal strike of 1926, for instance, Polish coal exports via Danzig increased greatly, the Danzigers complained that the coal left much dust and little money behind it.¹⁰ The Polish Diplomatic Rep-

⁵ *Der Hafen von Danzig*. Herausgegeben vom Ausschuss für den Hafen und die Wasserwege von Danzig (published by the Harbor Board, Danzig, 1926), pp. 16-17.

⁶ Foster MS, "The Free City of Danzig," pp. 344, 352-53.

⁷ Henri de Montfort, *Danzig, port de Pologne dans le passé et dans le présent* (Paris, 1939), p. 105.

⁸ Boguslaw Dobrzycki, *Die Entwicklung des Dansiger Hafens vor und nach dem Weltkrieg* (Danzig, 1933).

⁹ Kurt Feiser, *Danzig's Shipping and Foreign Trade* (Danzig, 1930).

¹⁰ Foster MS, "The Free City of Danzig," p. 348.

representative in Danzig, Henry Strasburger, admitted that "The economic position of Danzig is not as advantageous as one might think from a consideration of the statistics for imports and exports Most of the business is done without the Danzig middlemen."¹¹

In pre-1914 days the Danzig port had handled a balanced trade, including a fair proportion of the profitable high-priced commodities. Transit and trade had been in the hands of local merchants. But in 1927, for instance, coal constituted half of the bulk of all exports via Danzig but only 8 per cent of its value. The traffic in bulky goods of small value, bought and sold outside of Danzig, necessitated the installation of new and expensive equipment in the port but yielded insufficient profits. Danzig's own trade, including the shipping business, steadily lost ground, the harbor having become a mere port of transit.¹² The Free City, cut off from Germany by the high tariff wall of Poland, to which she was bound in a customs union, had suffered heavily by losing her former German customers, especially in the shipbuilding industry. On the other hand, the Polish government began in 1929 to block effectively the import into Poland of Danzig's manufactures, an action that caused acute economic distress in Danzig for many years.¹³

If it were possible to compare the monetary gains and losses of Danzig, one would take additional factors into account. The per capita cost of government was naturally high in the Free City, especially so because, in her capacity as an international state, she had to maintain certain services and government offices which greatly added to the overhead.¹⁴ Her share in the Polish customs receipts, once an important item in her income, greatly diminished during the depression years, while as a result of being within the Polish customs frontier the inhabitants of Danzig were compelled to pay high prices for goods imported from abroad. Foodstuffs, rents, and labor generally were cheap, while automobiles, machinery, chemicals, typewriters, citrus fruits, and the like, were extremely expensive. The existence of a special Polish postal service in Danzig constituted another financial loss to the Free City.¹⁵

¹¹ In *Baltischer Almanach für 1928*, Danzig, 1928, p. 57, quoted in *Foreign Policy Report*, July 5, 1933, p. 97.

¹² Letter of the Danzig Senate to the High Commissioner of the League of Nations, May 9, 1930, in *Collection of Documents* (in Danzig-Gdingen Dispute), pp. 4-5.

¹³ Foster MS, "The Free City of Danzig," pp. 150-60, 348.

¹⁴ Gerhard Flakowski, *Der ökonomische Aspekt des Danzig-Problems* (doctoral dissertation, University of Heidelberg, 1928), p. 161.

¹⁵ Foster MS cited, pp. 347-48.

THE RISE OF GDYNIA

Above all, the diversion of a large amount of Polish overseas trade to Gdynia, located only eleven miles west of Danzig, was effected directly at the expense of Danzig. From 1926 on, the former small fishing village developed into a port of extraordinary competitive strength.¹⁶ The Free City protested that the Polish government had favored the rise of Gdynia in violation of her treaty obligations to make use of the port of Danzig by granting substantial tax exemptions to industrial and commercial enterprises established in Gdynia, by charging only nominal rents for sites in the port, by subsidizing a number of importing firms, and by reducing freight rates between points in Poland and points in Scandinavia and North America and charging low rates on the Polish state railways for goods shipped to Gdynia rather than to Danzig. Danzig further claimed that Poland had given customs rebates and exemptions on goods passing through Gdynia, that it had induced various steamship companies to shift the emigrant traffic from Danzig to the new port, and that it had lowered port charges below those charged in Danzig, while the Polish members of the Harbor Board conspired to keep them up in Danzig.¹⁷

By 1933 Gdynia outdistanced Danzig in the volume of goods handled. The "upstart" port on which Danzigers had looked first contemptuously and then with growing anxiety had become a powerful weapon in the hands of Poland and an implied threat to the economic existence of the Free City.

WHY GDYNIA WAS BUILT

The Poles had undertaken the construction of Gdynia for political reasons, coupled with considerations born of economic nationalism and the desire to be considered a great naval power. When Danzig was not handed over to them at the Paris Peace Conference, they began to look over the strip of Baltic coast that constituted the northern end of the so-called Corridor.

Nature had put all kinds of obstacles in the place where the port of Gdynia was finally constructed. There was no natural harbor. Moreover, the shores were shallow and inhospitable, and every part of a port would have to be built *de novo*, at enormous expense. But the Poles decided to construct it.

¹⁶ *Le Port de Gdynia* (Warsaw, 1935), published by the Polish Ministry of Industry and Commerce.

¹⁷ *Collection of Documents in Danzig-Gdingen dispute*, pp. 5-14.

Their decision was based on a variety of considerations which helped them to overcome opposing arguments. At the height of the Polish struggle with Russia in the war of 1920, Danzig longshoremen had refused to unload French ammunition for Poland, making it necessary for the English troops of occupation to do it. Being largely dependent on imported munitions and arms, Poland seems never to have overcome fear of a recurrence of the dangerous situation.¹⁸ In addition, Poland's strong and often extreme demands for extension of her rights and privileges in Danzig were rebuffed, not only by the government of the Free City but repeatedly by the High Commissioner and the Council of the League of Nations, which insisted on the observation of existing treaty agreements. If Poland constructed and expanded her own port on her own territory she could—she believed—proceed unhampered.¹⁹ If by any chance Danzig should be reunited with Germany, as the Danzigers fervently and loudly hoped, Poland would be landlocked for all practical purposes unless the new port were built. Moreover, a heavy investment in the Corridor would strengthen Poland's claim to her possession, especially if Gdynia were also her naval base, while the large influx of population from all parts of Poland would serve to reduce the still heavy percentage of Germans in the region. It was hoped that the world would recognize the importance of the Corridor to Poland and would acknowledge the strength of Polish arguments against the revision of the German-Polish frontiers.²⁰ Furthermore, Polish commercial circles wanted a larger share of the overseas trade of the Republic without the complications necessarily involved in transactions across alien territory. Most of all, the Poles were extremely nationalistic and wanted to show the world through the establishment of a navy and a merchant marine with a home port that they possessed and exercised all the attributes of an independence which had been denied them for almost a hundred and fifty years.

When nationalism clashes with purely economic considerations, the money is usually spent regardless of the national budget. Between 1920 and 1935 Gdynia is believed to have cost the Polish

¹⁸ Thadée Bierowski, *La Ville Libre de Dantzig et la guerre polono-bolchévique de 1920* (Danzig, 1932), p. 30.

¹⁹ *The Port of Gdynia* (Gdynia, 1931), published by the Baltic Institute, pp. 3-6; also Casimir Smogorzewski, *Poland's Access to the Sea* (London, 1934), p. 333; Alfred Siebenichien (a Polish writer), *Danzig-Gdynia* (Danzig, 1933).

²⁰ Stanislas Slawski, *L'accès de la Pologne à la mer et les intérêts de la Prusse Orientale* (Paris, 1925), p. 52; see also Polish and French quotations in Th. Johansen, *Gdingen* (Danzig, 1928), pp. 78-79.

treasury some 28 million dollars (of 1934 value), while private investments in the equipment of the port amounted to another 6 million dollars.²¹ The building of the port was entrusted to a Franco-Polish consortium, which engaged Dutch and Danish firms to do the actual construction. By 1926 there was lively traffic in the harbor; by 1930 the port was possessed of completely modern and well-planned equipment for handling ocean-going trade; and the small fishing village had become a modern city of 30,000. The population rose to 50,000 five years later, and to 100,000 by 1939. Harbor, moles, wharves, basins, and railway tracks were all brand new and designed for maximum efficiency. A new railway line, constructed at enormous cost, connected the port with the Upper Silesian coal fields; built along the length of the Corridor, over hills and ravines, it was carefully planned not to touch the territory of the Free City, whose existing railway line to Poland a few miles away it duplicated. Poland now had her own seaport, with a railroad to it built entirely within Polish territory. But the achievement of Poland's "free and secure access to the sea" was not so complete as it appeared. In gaining a marked success in the building of Gdynia, in strengthening her hold on the Corridor, and in building herself up as an international power intended to be reckoned with, Poland solved only a part of her problem of independent existence. The year 1933, which saw Gdynia's annual traffic surpass that of Danzig for the first time, also witnessed the rise to power of National Socialism, both in Germany and in Danzig.

THE BIG DISPUTE

The clash between the two competitors, Danzig and Gdynia, led to an intense dispute between the Free City and Poland that put a heavy strain on the League of Nations machinery for settling conflicts between the two governments. Like so many Germans, Danzigers had at first been fond of looking upon resurrected Poland as a *Saisonstaat*, of temporary existence. When Poland's power showed no signs of diminishing, they still felt that the new Poland, predominantly agricultural and with little experience in trading, could not seriously compete with Danzig, a city having had centuries of experience in commerce and shipping. They looked upon the Polish notion of building a port in the sand dunes as a mad scheme doomed to failure, one worthy of the grandiose dreamers in Warsaw. But each year after 1924 Danzig felt increasingly the driving force of

²¹ Foster MS, "The Free City of Danzig," p. 295 n.

the rival port and of the Polish governmental efforts behind it; each year Gdynia's competition became more acute, causing grave anxiety to businessmen and shippers at the mouth of the Vistula, until it became a matter of vital concern for the future of Danzig, which could not possibly exist without the Polish trade.

The dispute between the two governments hinged upon the answer to a single question: Did Poland have the right to use her own port of Gdynia to the exclusion of Danzig? If the answer was negative—as later decided by the High Commissioner of the League of Nations and, on appeal, by the League Council—then a second question followed: To what extent was Poland obliged to utilize the port of Danzig?²² Danzig claimed that Poland was bound to make full use of the port of Danzig to its capacity before she utilized any other port. Poland, on the other hand, refused to recognize the existence of the obligation, declaring that she held herself free to make use of any port she chose. The complexity of the issue as well as the importance attached to it is apparent from the fact that the various documents, arguments, and counter-arguments take up some 250 pages of print.²³ The upshot was a resolution of the League Council, representing a compromise between the opposing views. Poland was declared bound by the Treaty of Versailles to make full use of the Danzig port for her sea-borne trade; on the other hand, Danzig's demand for priority over Gdynia in the event that the total volume of traffic should prove insufficient for both ports was accepted only with qualifications. In other words, Poland did not have to utilize Danzig to its fullest capacity while Gdynia stood idle.²⁴

The question of Poland's legal obligation was now clearly settled, but the extent of the use she must make of the port of Danzig was a question for technical experts. Appointed by the League of Nations Council, experts did investigate the respective capacities of the two ports. Danzig had the latest modern equipment for the large-scale loading and unloading of coal, while Gdynia had the superior cold-storage accommodations needed for the handling of Polish bacon, ham, butter, and eggs. The report of this Commission of Experts was favorable to Danzig in its chief recommendations. It declared that Poland was not entitled to benefit Gdynia

²² Morrow, *Peace Settlement*, p. 128.

²³ *Collection of Documents in Danzig-Gdynia dispute* (Danzig, 1931), and *Sammlung der Dokumente zum Rechtsstreit Danzig-Gdynia* (Danzig, 1931); for a discussion of the whole problem, see Morrow, *Peace Settlement*, pp. 127-40.

²⁴ Morrow, *op. cit.*, p. 128.

to the injury of Danzig by means of special administrative measures; that port dues in Gdynia must approximate those in Danzig; and that goods produced by the Polish state, as well as imports designed for the Polish state, including state monopolies, must pass through Danzig. These goods included tobacco, timber from the state forests, certain grain exports, nitrates, potassium, and manures. The valuable emigrant traffic also was shifted to Danzig. Otherwise trade was to be left free to choose between the two ports.²⁵

Negotiations between Danzig and Poland under the auspices of the High Commissioner concerning these recommendations were still in progress when the Nazi government came into office in Danzig in May 1933. As it was the early policy of the Nazis to pursue quite friendly relations with Poland, a broad agreement was concluded in the fall of 1933 that seemed to settle this as well as other outstanding issues. In a speech before the League Council, the new president of the Danzig Senate, Herr Rauschning, summarized the provisions of the agreement, emphasizing that Danzig would in the future obtain equal participation in Poland's sea-borne trade, that Poland undertook to prevent any further decrease in the traffic passing through Danzig, and that she had assured Danzig of equal treatment with Gdynia in the matter of import permits and customs facilities. In conclusion he mentioned that these arrangements were for a limited period only and were denounceable at short notice; he added that both Poland and Danzig were "well aware of the practical and psychological difficulties which existed in spite of good will The success and the future results of the agreements wholly depended upon whether the will of both parties to agree and to reconcile differences of opinion was lasting."²⁶

In the concluding paragraph of their report the Committee of Experts had pointed to the destructive nature of uncontrolled competition between two neighboring harbors serving the same hinterland. Danzig public opinion had pounced upon this reference and pronounced the situation fundamentally untenable and impossible of solution in the existing state of Danzig-Polish relations. And troublesome enough it was. Foiled in her hopes of gaining outright possession, or at least complete control over Danzig, Poland had constructed a rival port, favoring its rapid rise by all means available to the Polish state, until the competition threatened Danzig's existence as a port. As a competent English student of the problem remarked: "All through these years, Poland showed no disposition

²⁵ *Ibid.*, pp. 147-48, 153.

²⁶ *Ibid.*, pp. 154-56.

to negotiate with Danzig over the question of Danzig-Gdynia. Danzig's accusations of bad faith were either ignored or answered by counter-accusations of obstructiveness and anti-Polish feeling. It was even said that the capacity of the Danzig port did not suffice for the great trade of Poland, and that there was business enough and to spare for the two ports. Danzig retorted by declaring that whatever might be the extent of trade in a problematical future the present volume was insufficient to keep both ports alive. The Free City, therefore, demanded that Gdynia should be sacrificed to her interests in accordance with the provisions—as she interpreted them—of the Treaty of Versailles. But Poland interpreted those same provisions to mean that there was no obligation upon her to use Danzig alone as her seaport. Danzig put a construction upon the Treaty of Versailles that meant that Poland was under such an obligation. Two more exactly contrary standpoints can hardly be found in history."²⁷

²⁷ Morrow, *Peace Settlement*, p. 157.

POLAND'S ECONOMIC RIGHTS: THE RAILWAYS

In connection with Poland's access to the sea, the railways situated within the territory of the Free City played an important role by providing the connecting link between the harbor and the hinterland. This was especially true since Poland did not fully exploit the possibilities of the Vistula River as a carrier of goods.

The Treaty of Versailles had provided in its Article 104 that by the treaty to be concluded between Poland and Danzig—later known as the Treaty of Paris—Poland was to be assured the control and administration of the whole railway system within the Free City except such street and other railways as served primarily the needs of the Free City.

The Treaty of Paris changed this provision in that it transferred to the bi-national Harbor Board the control, administration, and exploitation of the whole railway system specially serving the port and of all property and establishments employed in such exploitation.¹ To Poland were transferred all other railways² as well as all property connected with their administration and exploitation which had belonged to the former German empire or any German state.³ The Free City, finally, was allowed to keep the tramways and other railways serving primarily its own needs.⁴

THREE RAILWAY SYSTEMS

The railway system located within the small territory of the Free City was thus divided into three parts: one part was Polish property, subject to Polish administration and exploitation, a second was the property of the Harbor Board but under Polish administration; the rest belonged to the Free City and was administered by it.⁵

¹ Excluding property and establishments employed in the general exploitation of the railways; Article 20 For the conflicting proposals addressed to the Conference of Ambassadors by Poland and Danzig concerning the disposition of the railways, see *Amtliche Urkunden zum Vertrage*, pp. 33, 43-45, 53, and 73-74. A résumé of the developments is found in Felician Prill, *Die öffentlich-rechtliche Stellung der Eisenbahnen im Gebiete der Freien Stadt Danzig*, doctoral dissertation, University of Jena, 1929, pp. 1-2 Hereafter cited as *Eisenbahnen*. [Crusen, *Der Pariser Vertrag*, pp. 294-325.]

² Article 21, Treaty of Paris.

³ Article 25, Treaty of Paris. [Crusen, pp. 388-92.]

⁴ Article 21, Treaty of Paris.

⁵ Matschke, *Grundlagen des internationalen Statuts*, p. 106.

The delimitation of the various railways led to difficulties. The Treaty of Paris had left it to the Harbor Board to decide which railways were to be considered as especially serving the port, subject to the right of the governments of Poland and Danzig to state their objections. Chapter 7 of this book has described how the matter was settled by the decision of the High Commissioner.⁶ Because Danzig and Poland were unable to agree which railways served primarily the needs of the Free City, the High Commissioner was called upon to decide this question as well. In his decision of August 15, 1921, which, together with the decision of September 5 of the same year, forms the basis for the railway settlement, the High Commissioner went carefully into this aspect of the situation:

It cannot be said with truth that any of the main line railways serve primarily the Free City. The Free City and its railways only exist because of the sea, the harbour, the Vistula and the Hinterland. If it were not for the last three Danzig would never have come into existence as a great Port. It is evident, therefore, that the main line railways and their stations and goods yards serve the Harbour and the Hinterland more than they serve the Free City, and therefore they do not primarily serve the needs of the Free City. The light railways and the tramways serve the City of Danzig and its Territory more than they serve the Harbour and the Hinterland, and therefore they serve primarily the needs of the Free City.⁷

He accordingly decided that the existing narrow-gauge railways and tramways, together with their property, belonged to the Free City.⁸

To Poland went the ownership, control, administration, and exploitation of all broad-gauge railways not assigned to the Harbor Board, together with the property belonging to them, including the Railway Administration Building (*Eisenbahndirektion*).⁹ Both

⁶ Especially pp. 128-29, above.

⁷ *Decisions, 1921*, p. 15. Prill, *op. cit.*, pp. 12-13, claims that the suburban and at least one rural line served only local needs of the Free City, as do the tramway and the narrow-gauge railways, and had nothing to do with Polish interests in Danzig. It is hard to see, however, how the High Commissioner could have made allowance for such special claims, even if they are valid.

⁸ *Decisions, 1921*, p. 16.

⁹ *Ibid* Foster MS, "The Free City of Danzig," p. 184 n, states: "It will be noticed that neither the Treaty of Versailles nor the Convention of Paris expressly grants Poland the ownership of these railways. Plainly the High Commissioner's ruling was not sanctioned by the treaties but must have appeared to him to be necessitated on grounds of expedience." Prill, *op. cit.*, p. 13, n. 47, points to articles in the *Danziger Zeitung* of various dates by Otto Loening, the Danzig jurist, who doubts the formal right of the High Commissioner to dispose of former German state property, for instance, the *Eisenbahndirektion*, as its distribution belonged to a special Allied Commission, formed in accordance with Article 107 of the Treaty

governments agreed to accept this decision and to form a corporation which would administer the railway repair shops. Its capital was to be 45 per cent Polish and 45 per cent Danzig, with the remaining 10 per cent to be offered to a financial group connected with neither of the two parties.¹⁰ The Polish Administration took over the railways on December 1, 1921.¹¹

Disagreements and disputes cropped up immediately. As usual, they served to bring about a clarification of the mutual rights and obligations of the two parties involved. Within three weeks the High Commissioner had dealt with several of them in his extensive decision of September 5, 1921. They included the question of by-laws passed by the Polish Railway Administration in Danzig, its liability to local tax payments, the use of the German and Polish languages on the railways, and the filling of vacancies on the working staff. As might have been expected, national considerations were closely tied up in each case with the technical problems involved, thus stimulating public interest in an otherwise dry subject.

PRINCIPLES OF ADMINISTRATION

The High Commissioner pointed out that certain principles should be kept in view among the intricacies of each of these questions. In regard to Poland's control and administration of the broad-gauge railway system, on either her own behalf or that of the Harbor Board, he stated clearly:

The object of this is twofold, first to secure to Poland free access to the sea, and secondly to provide for the inhabitants of Danzig all the facilities of transit for passengers and goods which she has enjoyed in the past. It is necessary, therefore, in all these questions, to distinguish, so far as the territory of Danzig is concerned, between the administrative

of Versailles. The decisive fact, however, seems to be that Danzig and Poland signed the Agreement of September 23, 1921, providing for the execution of the High Commissioner's decisions (*Zusammenstellung, 1920-1923*, p. 79).

¹⁰ Agreement of September 23, 1921 (*Zusammenstellung, 1920-1923*, pp. 78-81). This corporation known as "The International Shipbuilding and Engineering Company, Ltd.," managed the former Imperial Shipyards as well (Prill, *op. cit.*, p. 14 n.).

¹¹ See Protocol of same date, published as supplement in *Zusammenstellung, 1924-1927*, pp. 74-78, 79-82; this protocol lists the existing railway lines and their properties. Upon cession of the Danzig territory to the Allied and Associated Powers the railways were separated from the Prussian railway system and administered by the "Eisenbahndirektion für das Gebiet der zukünftigen Freien Stadt Danzig"; after the establishment of the Free City the designation was changed to "Eisenbahndirektion der Freien Stadt Danzig," until the Polish State Railways (Polskie Koleje Państwowe) took over (Prill, *op. cit.*, p. 1).

and economic rights of Poland and the sovereign rights of the Free City.¹²

He continued, referring to the hurt feelings of Danzigers:

Poland having secured her own needs as regards free railway access to the sea, it is incumbent on the Polish Railway Administration to do everything possible to safeguard the interests of Danzig officials, employees and workmen employed to work the railways within the territory of the Free City, and to avoid wounding the susceptibilities of the inhabitants by making bye-laws which are not absolutely necessary for the satisfactory working of the administration, or which can be interpreted as an attempt to Polish the Danzig railways. In Viscount Ishii's report dated 17th November, 1920, and adopted by a Resolution of the Council of the League of Nations, it is stated that the inhabitants of Danzig "shall be autonomous, they shall not pass under Polish rule and shall not form part of the Polish State. Poland shall obtain certain economic rights in Danzig," etc. If these principles are applied to all questions in dispute it is possible to find a solution. . . .¹³

DISPUTES AND DECISIONS

By-Laws of the Polish Railway Administration—The question of possible conflicts between the laws of the Free City and the by-laws and regulations of the Polish Railway Administration in Danzig was of special importance, especially as the railways were owned by the Polish government. The High Commissioner stated in his decision that the Polish Railway Administration, "having no sovereign rights within the territory of the Free City must conform to the laws of the State."¹⁴ He added that it was concerned solely with the successful working of the railways and that the Treaty of Paris required it to maintain the rights of Danzig officials, employees, and workmen engaged by it to carry on the work of the railways within the territory of the Free City, and also to safeguard the interests of the local population. Within these limits, the High Commissioner held, the passing of the by-laws for this railway system was entirely a matter for the Polish Railway Administration.¹⁵ On the other side, the Danzig government had no right under the same treaty to place the Polish Railway Administration in a position where it would be unable to administer, control, and exploit this railway system.¹⁶

While the High Commissioner's decision appeared clear, its ap-

¹² *Decisions*, 1921, p. 29.

¹³ *Ibid*, pp. 29-30.

¹⁴ *Decisions*, 1921, p. 34. Concerning the Danzig railway laws, see Prill, *Eisenbahnen*, pp. 15-16.

¹⁵ *Decisions*, 1921, p. 34.

¹⁶ *Ibid*

plication in practice was not always simple. Disputes over questions of jurisdiction were bound to arise sooner or later. In 1929 the Free City asked the High Commissioner to decide that the Polish Railway Administration was obligated in all cases where the approval of the supervising authority was required, under the Danzig Traffic Regulations (*Verkehrsordnungen*) of October 25, 1928, to obtain the approval of the Senate of Danzig as the supervising authority. Upon the High Commissioner's request, the League of Nations appointed a committee of experts, including Dr. Georg Crusen, Chief Justice of the Free City as a member *ad hoc*, to consider this highly technical question. The committee's opinion, Dr. Crusen and one other member dissenting, was accepted *in toto* by the High Commissioner, and formed the basis for his decision denying the Danzig request.¹⁷ The Free City's appeal against the decision to the League Council was unsuccessful.¹⁸ The case served, therefore, to indicate more clearly the limits within which the issue of by-laws was, in the words of the High Commissioner's earlier decision, a matter entirely for the Polish Railway Administration.

In regard to insurance covering sickness, accident, old age, and the like, the Railway Administration was obligated to apply to the Danzig staff the same regulations that they enjoyed under the Danzig administration, even if these were more favorable than those existing in Poland. Furthermore, the Railway Administration was to improve the conditions under which these benefits were given, if at any time the railway employees in Poland should be more favorably circumstanced in this respect than those in Danzig.¹⁹

Civil and Criminal Jurisdiction.—Everything connected with the Polish Railway Administration within the territory of the Free City was subject to the civil and criminal courts of Danzig. Since the Administration had no sovereign rights in Danzig, it was unable to establish courts of law within its territory.²⁰ The question of the competence of the Danzig courts to decide suits against the Railway Administration led to a two-year dispute which ended in favor of Danzig. It is unnecessary for our purposes to go into the legal intricacies of the question, which was of a highly technical nature.²¹ The League Council requested²² an advisory opinion from the Per-

¹⁷ Decision of January 12, 1932 (*Decisions, 1928-1932*, pp. 20-23).

¹⁸ *Official Journal*, July 1932, pp. 1171-72.

¹⁹ *Decisions, 1921*, p. 36

²⁰ Decision of September 5, 1921 (*Decisions, 1921*, p. 35). [Crusen, pp. 314-16.]

²¹ The case is analyzed briefly in Foster MS, "The Free City of Danzig," pp. 187-89, and in greater detail in Prill, *Eisenbahnen*, pp. 29-36.

²² *Official Journal*, October 1927, pp. 1418-23.

manent Court of International Justice, after Danzig had appealed against a 1927 decision of High Commissioner van Hamel.²³ The Court declared that the Danzig railway employees had the right to sue the Railway Administration in the Danzig courts; that their right was based not only on High Commissioner Haking's decision of September 5, 1921, but equally on the Agreement of October 22, 1921, between Danzig and Poland (the so-called *Endgultiges Beamtenabkommen*);²⁴ and that the Railway Administration was bound to comply with the judgments rendered.²⁵ Danzig and Poland consequently concluded an agreement in which they accepted the Advisory Opinion as an authentic interpretation of the *Beamtenabkommen*.²⁶

Police.—According to High Commissioner Haking's decision, police provided by the Danzig government for maintaining order remained under the control of that government, which alone was responsible to the inhabitants of the Free City and to the League of Nations for the maintenance of order and security of life and property within its territory. While those Danzig police who were actually employed on the premises of the Polish Railway Administration were to conform to the wishes of that Administration, the method of carrying out their work was a matter for their own officials to decide, and the work itself must be in conformity with the general police laws and regulations of the Free City. In the case of a criminal act by any person, or of danger to life, the police had the right to call upon the Railway Administration to render any required assistance, even if it involved a temporary cessation of traffic.²⁷

The technical railway police, who were engaged, paid, and employed by the Railway Administration, were subject to its by-laws and were in exactly the same condition as any other official or employee engaged by it.²⁸

Taxation.—The Railway Administration was exempt from the payment of any rates, taxes, or similar charges to the government of Danzig on the railway or any property belonging to it. High Com-

²³ Decision of April 8, 1927 (*Decisions, 1926 and 1927*, pp. 33-41). For a very critical dissection of this decision, see Otto Loening, "Van Hamels Danziger Eisenbahnbeamtenentscheidung," *Volkerbundfragen*, 1927, pp. 161-69. [Crusen, p. 315.]

²⁴ Text in *Zusammenstellung, 1920-1923*, pp. 99-104.

²⁵ Collection of Advisory Opinions, Series B, No. 15. Given unanimously.

²⁶ Agreement of March 6, 1928 (*Zusammenstellung, 1928-1932*, pp. 120-21).

²⁷ Decision of September 5, 1921 (*Decisions, 1921*, p. 35). For a discussion of the pertinent police functions, see Prill, *Eisenbahnen*, pp. 28-29 [Crusen, pp. 319-20.]

²⁸ *Decisions, 1921*, p. 35

missioner Haking held that Danzig, being provided with a working railroad for the use of its citizens, was not justified in demanding such dues.²⁹ Poland and Danzig agreed that the exemption should extend to taxes levied by communities, churches, and other public-law corporations; exemption, however, referred only to direct taxes. The Railway Administration was obligated to contribute to the support of schools in proportion to the number of children of its employees attending such schools.³⁰

Use of the German Language.—Among the disputes anticipated by the framers of the Treaty of Paris was one concerning the language to be employed on a railway system owned for the most part by the Polish government, staffed largely by German-speaking Danzig officials, employees, and workmen, and used preponderantly by Danzig passengers and Polish shippers. Article 22 of the Treaty had laid down that among other things to be settled by future agreement were questions relating to the guaranties to be accorded reciprocally in regard to the use of the Danzig and Polish languages and in regard to the interests of the local population in all matters relating to the administration, exploitation, and services of the railways, etc.³¹

High Commissioner Haking introduced his decision on the language question with some significant remarks, putting the problem in its relative setting:

It appears to me that the administration of the railways being in Polish hands, with full powers of making bye-laws, that the guarantee in this case is required for Danzig inhabitants far more than for Polish inhabitants. Since almost the whole of the inhabitants of Danzig (possibly without exception) talk German and the vast majority are unable to talk Polish, and since the official language of the country is, by the Constitution, German, it is evident that every possible facility must be given for the use of that language on the railways in the territory of the Free City. Furthermore since Poland has engaged by the Convention [Treaty of Paris] to maintain the rights of the Railway officials, employees and workmen who have been engaged for many years on this railway system and who, almost to a man, speak only German, it is equally evident that their administration within the territory of the Free City should contemplate the use of the German language wherever possible, and wherever it does not seriously interfere with the working of the railways.

²⁹ *Ibid.*, p. 33.

³⁰ Agreement of September 23, 1921 (*Zusammenstellung, 1920-1923*, pp. 84-85); see also Agreement of November 26, 1932 (*Zusammenstellung, 1928-1932*, pp. 186-88). [Crusen, p. 320.] ³¹ Decision of September 5, 1921 (*Decisions, 1921*, p. 36).

As regards the susceptibilities of the inhabitants it would be extremely bad policy on the part of the Polish Railway Administration to impose upon the clients, whom they serve, a language which few of them understand. Everyone is agreed that no stone should be left unturned to improve the relations between the two peoples and nothing would please the inhabitants of the Free City more than to feel that the Polish Administration had no desire to impose their language upon them.³²

Accordingly, he decided that the German language was to be employed by the Railway Administration in all its dealings with the Danzig public, or with the railway officials, employees, and workmen of Danzig nationality. This decision was in no way to limit the power of the Administration to use the Polish language whenever and wherever it was absolutely necessary for the efficient working of its higher administration or when any member of the public wished to employ that language.³³ Further, all notices on railway stations within the territory of the Free City, such as names of places, platforms, ticket offices, cloakrooms, and timetables, were to be in German, and all tickets issued to the public from or to a place within the territory of the Free City were also to be in German. Tickets issued to places in Poland or other foreign countries might be in both languages if required. Notices in railway carriages or on stations regarding safety, sanitation, and health might be posted in both languages if the Polish Administration was of the opinion that it was absolutely necessary for the convenient and effective working of the railway.³⁴

Americans might be surprised at so much formal decision-making on matters that could have been dispensed with by the use of some common sense on both sides. On reflection they will realize that the use of their own tongue is clung to tenaciously by people who consider their nationality threatened and that, vice versa, breaking people of the habit of using their own language is one of the favored methods of attempts at denationalization. The fact that this decision was down in writing early in the story of Danzig-Polish relations helped with respect to other matters that were difficult enough to settle in themselves without having the overhanging sword of an unsettled language question.

Vacancies on the Railway Staff.—People value their jobs and opportunities for employment almost as much as they value the use of their mother tongue. It was decided by the same High Commissioner that, in filling vacancies occurring on the railways within the

³² *Decisions, 1921*, pp. 30–31.

³³ *Ibid.*, p. 31.

³⁴ *Ibid.*, pp. 31–32.

Free City, Poland must give priority to Danzig citizens, especially to families which had been employed for years on the railway and whose children wished to follow the occupation of their parents. In the absence of suitable applicants of Danzig nationality, Poland had the right to introduce Polish nationals. The Danzig delegate to the Railway Administration was to watch the interests of the Danzig inhabitants in this respect.³⁵ This decision applied only to the working staff of the railway and not to the high officials concerned with the general control and administration of the whole railway system, which must necessarily be left entirely to the decision of the Polish Administration.³⁶

The problem of employment on the railways was, of course, only partly one of jobs and opportunities to make a living, important as that consideration was in the uncertain days of 1921. It was also a question of nationality, of whether Poland should or should not have the right to introduce into the Free City large numbers of Polish citizens who would serve to increase the local Polish minority. Danzigers recalled the unsuccessful official Polish demands, made prior to the conclusion of the Treaty of Paris, for the right to the establishment in Danzig of hospitals, sanatoria, workers' homes, playing fields, and other institutions of public and social welfare, presumably filled and staffed by Poles, and the demand for political rights for Polish citizens who had resided in the Free City for six months.³⁷ The High Commissioner mentioned in his decision that Poland had suggested that "no preference" be given to Polish applicants for railway jobs, which meant that they would have equal rights with Danzigers, while the Danzig proposal was to fix the proportion according to the number of Polish and Danzig votes polled at the last election or, as an alternative, in the proportion of 5 to 1 in favor of Danzig nationals. The High Commissioner did not consider either of these proposed solutions entirely satisfactory, since in his opinion the most important point was to guarantee the interests of Danzig citizens.³⁸ Polish nationals, residing in Poland, had sufficient opportunities, according to his reasoning, to find work on their own extensive railway system without coming into Danzig territory for the purpose, whereas Danzig workmen, being inhabitants of the Free City and nationals of Danzig, could not expect to find work

³⁵ *Decisions, 1921*, p. 38. Concerning the Danzig delegate, see below, pp. 148-49. For a detailed discussion of the legal status of Danzig nationals employed on the railways, see Prill, *Eisenbahnen*, pp. 21-26.

³⁶ *Ibid.*

³⁷ See above, chapter 6, especially pp. 90-91

³⁸ *Decisions, 1921*, p. 37.

anywhere except on railways in Danzig territory. As he succinctly put it, any decision by him should prevent the importation of Polish officials, employees, or workmen in such numbers that the interests of the Danzig railwaymen, i.e., part of the local population, would suffer³⁹ He also recalled that Polish employees of the railways assigned to the Harbor Board received special protection, which⁴⁰ incidentally was true also of other employees of the Harbor Board.

The Danzig Delegate on the Polish Railway Administration.—While the High Commissioner's decision appears clear, the various problems involved complicating factors. The Railway Administration in Danzig was one of a number of administrative units of the government-owned Polish railway system, with headquarters in Warsaw. Naturally, it had to deal with certain local problems, interests, and needs characteristic of the Free City only. In an earlier decision the High Commissioner had recognized this fact and had granted the government of the Free City the right to appoint a railway official to serve on the Railway Administration in order to keep that Administration informed regarding the requirements of the Free City and the towns and villages in its territory, especially in regard to local passenger traffic and to merchandise sent or received by the inhabitants. The Administration was to apply to these requirements the same efficiency that applied to the requirements of its own traffic.⁴¹ Poland also agreed to inform the Danzig delegate of all important decrees pertaining to the railways within the territory of the Free City, if possible before their execution.⁴²

The High Commissioner had occasion within a year to tell the Railway Administration that it had paid insufficient attention to the demands of the Danzig delegate. The Administration had closed the German official tourist ticket office in the main railway station in Danzig, taking no notice of an immediate protest by the Danzig delegate. Half a year later the office was reopened with a Polish travel firm in charge under the official title. The Danzig delegate was informed of the reopening a week ahead of time. The High Commissioner decided that Poland was not justified in establishing a Polish firm in the chief railway station at Danzig for the purpose of selling tickets to the public, even when that firm was ostensibly included in the Railway Administration, without first considering

³⁹ *Decisions, 1921*, pp. 36-37

⁴⁰ *Ibid.*, p. 36

⁴¹ Decision of August 15, 1921 (*Decisions, 1921*, p. 17). The tasks of the Danzig delegate were described in some detail in Supplement No. 2 to the Agreement of September 23, 1921 (*Zusammenstellung, 1920-1923*, pp. 89-90); see also Prill, *Eisenbahnen*, pp. 18-20. [Crusen, *Der Pariser Vertrag*, pp. 321-22.]

⁴² *Ibid.*, p. 89.

the objections put forward by the Danzig delegate and giving the Danzig government an opportunity to express its views. In his reasoning the High Commissioner pointed to his earlier decision, which had stated that it was incumbent upon the Railway Administration to do everything possible to avoid wounding the susceptibilities of the inhabitants by making by-laws which were not absolutely necessary for the satisfactory working of the Administration or which could be interpreted as an attempt to Polonize the Danzig railways.⁴³

When denying Danzig's right to participation in the International Railway Conference at Berne in 1923, Poland gave as one of her two reasons that the Free City's interests were sufficiently guaranteed by the appointment of the Danzig delegate on the Railway Administration through whom Danzig could express her wishes. The High Commissioner decided that the Free City of Danzig was entitled to send a representative to the Railway Conference at the expense of the Polish government. He rejected the Polish view that Danzig had no reason to attend such a conference because the Polish government owned a part and administered the rest of the broad-gauge railways in the territory of the Free City, since railway matters are of interest not only to the owners of the lines but also to the governments of the countries in which those lines lie and operate. He concluded by stating that railway matters were obviously of particular interest to a town like Danzig.⁴⁴

The next dispute reached the High Commissioner in 1932, when Count Gravina decided that the Danzig delegate did not have the power to judge whether or not certain personnel measures taken by the Polish Railway Administration were justified by the necessities of the service. The administration was obligated to inform him, he said, in advance if possible, of the measures pertaining to the dismissal and transfer of Danzig subjects working for the railways, together with the reasons for them. The High Commissioner added that the Danzig members of the railway staff could not be employed outside the Free City without their consent except in certain cases of formal disciplinary judgments.⁴⁵

Separate Administration of the Danzig Railways.—An early decision forced Poland to keep the Danzig railways as a separate ad-

⁴³ Decision of December 31, 1922 (*Decisions*, 1922, pp. 60-64).

⁴⁴ Decision of January 8, 1924 (*Decisions*, 1924, pp. 4-7); see also above, pp. 105-6.

⁴⁵ Decision of January 15, 1932 (*Decisions*, 1928-1932, pp. 33, 38-39, 40, 41). The League Council confirmed the decision of the High Commissioner against the appeal of Poland, which had asked for a stronger statement of the rights of the Railway Administration (*Official Journal*, July 1932, pp. 1174-76).

ministrative unit rather than join them with other parts of the Polish railway system. High Commissioner Haking decided, in favor of Danzig's contention, against the establishment by Poland in the Free City of a Railway Direction which dealt with certain railways in Poland as well as those in the territory of the Free City. He denied that Poland had such a right except by agreement with the Free City. He stated that the question of expediency offered many arguments in favor of the Polish demand but he found it difficult to place expediency before legal right.⁴⁶ When Poland appealed against this decision, the League Council upheld it on the basis of the report of a committee of experts, consisting of Jonkheer W. J. M. van Eysinga, professor at the University of Leyden, M. Niquille, General Director of the Swiss Federal Railways, and Professor C. Vivate of the University of Rome.⁴⁷

One of the reasons for Danzig's strong opposition to Poland's desires in this matter was revealed when the Polish government agreed that "leaving the Polish Railway Direction in Danzig should serve economic and technical, but not political purposes, for instance, the acquisition of citizenship rights in Danzig by Polish officials."⁴⁸

Although Danzig and Poland conducted protracted negotiations over the Railway Direction matter, they came to no agreement.⁴⁹ Finally, in 1929, the Senate of the Free City took the matter again to the High Commissioner, who decided, nine years after the first decision, that it was not admissible to merge all the railways situated within the territory of the Free City so completely with the Polish Railway Administration that these railways thereby lost the character of a separate unit of the Polish Administration. Further, the Railway Administration was obliged to set up promptly in Danzig a Polish railway organization entrusted with the organization of the entire railway net within the borders of the Free City (except tramways and narrow-gauge railways) and possessing the character of a special unit of the Polish Railway Administration.⁵⁰ The League Council decided against Poland's appeal.⁵¹

⁴⁶ Decision of December 12, 1922 (*Decisions, 1922*, pp. 52-53). [Crusen, pp. 306-8.]

⁴⁷ Hans Adolf Harder, *Danzia, Polen und der Völkerbund*, pp. 98-99, *Official Journal*, April 1925, pp. 473-74, 566-67.

⁴⁸ Danzig-Polish Protocol of June 23, 1923 (*Zusammenstellung, 1920-1923*, p. 107).

⁴⁹ Harder, *op. cit.*, p. 99.

⁵⁰ Decision of January 14, 1932 (*Decisions, 1928-1932*, pp. 24-29). The High Commissioner acted with the assistance of experts appointed by the League at his request.

⁵¹ *Official Journal*, July 1932, pp. 1173-74.

RAILWAY TRAFFIC ACROSS THE CORRIDOR

The problem of railway traffic through the Polish Corridor between the Free City and Germany was regulated by special treaty between the three states, as provided for in Article 98 of the Treaty of Versailles.⁵²

The right to the control and administration of railways by one state in the territory of another is not altogether unusual. The German Reichsbahn had run the railways of Luxembourg since 1872, with provisions interestingly parallel to the Danzig situation, especially in regard to the preferential employment of Luxembourg citizens and the jurisdiction of Luxembourg courts.⁵³ Reference may also be made to Russian, English, and Japanese railway lines in China, especially in Manchuria. Arrangements applying to minor railway lines were concluded by Germany with Austria in 1898 and 1904, with Holland in 1899, and with Russia in 1905.⁵⁴

The ownership of part and the administration of all broad-gauge railways in the territory of the Free City was one of those "economic rights" granted to Poland to which the Allied Powers had referred in their *Reply* to the German counter-proposals on the Allied Terms of Peace. Poland thereby received, not any sovereign rights, but extensive railway property and the right to administer, control, and exploit it for the purpose of securing free access to the sea. The railway arrangement also had the second purpose of providing for the inhabitants of Danzig all the facilities of transit for passengers and goods which she had enjoyed in the past. It was incumbent upon the Polish Railway Administration to do everything possible to safeguard the interests of Danzigers employed on the railways, to avoid the wounding of the susceptibilities of the local inhabitants by the making of bylaws which were not absolutely necessary for the satisfactory working of the administration, or which could be interpreted as attempts to Polonize the Danzig railways.⁵⁵

Since Poland and Danzig did not usually see eye to eye on the question of mutual rights and obligations, the High Commissioner had frequent occasion to demonstrate the usefulness of his office.

⁵² See Hubertus Schonberg, *Das Pariser Abkommen zwischen Deutschland, Polen und der Freien Stadt Danzig über den freien Durchgangsverkehr zwischen Ostpreussen und dem übrigen Deutschland vom 21. 4. 1921 in seiner völkerrechtlichen, straf- und zivilrechtlichen Bedeutung* (doctoral dissertation, University of Breslau, 1928). Schonberg refers briefly to similar arrangements in German and Polish Upper Silesia, Hungary, Bulgaria, Yugoslavia, and Greece (*ibid.*, pp. 2, 5-7, 59-60), and provides a résumé of the provisions of this treaty (*ibid.*, pp. 7-9). See also Hatschek, *Völkerrecht als System rechtlich bedeutsamer Staatsrechte*, 1923, p. 159.

⁵³ Prill, *Eisenbahnen*, pp. 38-39. ⁵⁴ *Ibid.*, pp. 37-38. ⁵⁵ *Decisions*, 1921, p. 29.

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POLAND'S ECONOMIC RIGHTS: POSTAL AND OTHER COMMUNICATIONS

A famous and spectacular dispute between Danzig and Poland, known as the mailbox incident, arose over Poland's right to establish in the port of Danzig a postal, telephonic, and telegraphic service for direct communication with Poland as part of Poland's access to the sea. Few, if any, controversies between the two states caused so much concern to the public and the press. The right was established by the Treaty of Versailles and the Treaty of Paris; but the several questions arising from its application were not finally decided until late in 1925. To arrive at a final settlement—at least as far as legal considerations were concerned—required several Decisions of the High Commissioners, prolonged efforts by the League of Nations Council, an extraordinary session of the World Court, and the deliberations of a special committee of experts on port questions.

In the meantime a storm of public excitement reigned in Danzig and a tempest of indignation in Poland. As Andrew B. Foster stated:

Scarcely any subject has so embittered the relationship between the two States. At the height of the controversy there were not only angry recriminations in the press and intense animosity between the peoples but even physical violence in the streets of Danzig. The three Articles of the Treaty of Paris seem simple and lucid enough, and their subject matter hardly appears of sufficient importance to justify the hostility which they aroused; yet they furnished excellent material for the conflict between the sovereignty of the Free City and the Polish right of access to the sea. Poland was granted a postoffice, with telegraphic and telephonic services, in Danzig. How were its functions to be limited? Could branch offices be maintained throughout the port? Were the services empowered to compete with those of the Free City? Was Poland entitled to collect and deliver letters, to set up letter-boxes, to send out postmen? Who should say what land and buildings were "necessary"? And what of those communications which were "the concern of the Free City"?¹

¹ Foster MS, "The Free City of Danzig," pp. 191-92.

THE MELEE OVER MAILBOXES

The storm broke on January 5, 1925, when Poland inaugurated postal, telephonic, and telegraphic services in the recently acquired buildings on the Heveliusplatz and set up ten mailboxes at various places in the city for the purpose of receiving mail for delivery in Poland. The government of Danzig protested strongly against the character and extent of the service, claiming that the Polish postal service should be limited to the premises on the Heveliusplatz and used by Polish officials only, not the general public.

The mailboxes had been set up in the streets of Danzig without any previous notice or information to the public. They bore inscriptions in Polish and, in both Polish and German, the words: "Only for letters to Poland."² The Polish government informed the Senate concerning them by a letter dated January 3, which was received after the service had been started. The Polish government gave as its reason that the Polish postal service extended to the port of Danzig, that the High Commissioner's decision of August 15, 1921, had fixed the territorial limits of the port, and that the Polish government reserved to itself the power to extend these geographical limits. Only one post and telegraph office would be opened; but this would be furnished with all the usual postal, telephonic, and telegraphic installations which were necessary for the efficiency of the service, including postboxes. Poland also announced that she would start delivery of mail by Polish postmen throughout Danzig.³

Whereas American mailboxes are painted green, Danzig mailboxes are painted blue—the same as those in the German Reich—while Polish postboxes are a bright red, embellished with the white Polish eagle. Thus the Danzigers literally and figuratively saw red when they discovered the Polish postal receptacles in their streets. The next morning the same boxes were found to have been repainted in the Imperial German colors—red, white, and black.⁴ In the eyes of the Danzigers, the Polish mailboxes suddenly appearing in front of their homes were symbols of "Polonization," ever feared and ever suspected, and the new coat expressed the strong popular protest. The Polish Diplomatic Representative in the Free City, Dr. Henryk Strasburger, took a serious view of the situation. He formally asked that the Senate apologize for this insult to the Polish

² As stated by the Free City, quoted by the High Commissioner in the Decision of February 2, 1925 (*Decisions*, 1925, pp. 5-6).

³ Foster MS cited, p. 196, quoting the *London Times* of January 8, 1925, p. 11.

⁴ Morrow, *Peace Settlement*, p. 79; see also A. J. Toynbee, *Survey of International Affairs* (1925), II, 243-45.

Republic and take measures to prevent its recurrence, and hinted that

if the Danzig police were incapable of preventing such outrages, Poland would herself take steps to maintain order in the territory of the Free City. A formal apology by the Senate for the damage inflicted to the post-boxes did not serve to assuage the irritation caused by this untoward incident. Moreover, the Senate contended that it was simply a case of damage to private property inasmuch as Poland did not possess sovereign rights in the Free City.⁵

As the bitterly fought dispute involved fundamental considerations, it is important to examine the problem in its entire setting,⁶ going back to the provisions of the Treaty of Versailles, and bringing out the various factors which had entered the picture since that time.

THE TREATY PROVISIONS

The Treaty of Versailles provided in its Article 104 that a convention should be concluded between the Polish government and the Free City, with the object, among others, of insuring to Poland the control and administration of postal, telegraphic, and telephonic communications between Poland and the port of Danzig. This provision was one of those designed to assure to Poland free access to the sea at the port of Danzig,⁷ then its only outlet on the Baltic. The rights given to Poland were defined by chapter 4 of the subsequent Treaty of Paris in the following four articles.

Article 29. Poland shall have the right to establish in the port of Danzig a post, telegraph and telephone service communicating directly with Poland. Postal and telegraphic communications *via* the Port of Danzig between Poland and foreign countries, as also communications between Poland and the Port of Danzig, shall be dealt with by this service.

For the realization of this right it was further provided:

Article 30. The Free City of Danzig undertakes to lease or sell to Poland on equitable terms the necessary land or buildings for the establish-

⁵ Morrow, *Peace Settlement*, p. 79.

⁶ Franz Skibowski, *Die polnische Post im Hafen von Danzig* (doctoral dissertation, University of Jena, 1928), presents a highly technical analysis of the various domestic and international legal aspects of the Polish postal problem [Crusen, pp. 430-52.]

⁷ Statement in the Advisory Opinion of the World Court on *Polish Postal Service in Danzig* (Permanent Court of International Justice, Series B, No. 11, p. 11), referring to the reply dated June 16, 1919, by the Allied and Associated Powers to the observations of the German delegation on the conditions of peace, which reply was cited in the *Ishu Report* on Danzig to the League Council of November 17, 1920; see above, p. 61 n.

ment and working of the services provided for in Article 29 as well as in Article 21.⁸ The Free City undertakes to accord to Poland all the facilities necessary for the installation of the telegraph and telephone lines required for the application of said article.

The Free City's own postal system and its wide extent and basic importance were also recognized:

Article 31. All other postal, telegraphic and telephonic communications within the territory of the Free City, as also communications between the Free City and foreign countries, shall be the concern of the Free City.

Article 32. Poland and the Free City of Danzig undertake to conclude, within a period of six months from the coming into force of the present Treaty, a special convention for the purpose of establishing uniform postal, telegraphic and telephonic tariffs for communication between the two States; this convention shall at the same time lay down the necessary details for the application of this chapter.

These articles were executed and completed by the Warsaw Agreement, discussed below, in conformity with this Article 32.

POLAND'S ORIGINAL PROPOSALS

These provisions are virtually identical with Article VII of the Danzig draft for the Treaty of Paris,⁹ and with Articles 26–28 of the two drafts of the Conference of Ambassadors.¹⁰ They differ greatly, however, from the proposals of the two Polish drafts. The first Polish draft envisioned the inclusion of the postal, telegraphic, and telephonic network of the Free City in that of Poland, subject to Polish laws and decrees.¹¹ The second Polish draft left the postal system of the Free City alone but gave Poland an unlimited right to organize and administer in the territory of the Free City its own postal¹² system, including an unstated number of post, telegraph, and telephone offices, and to establish in Danzig the district headquarters for these communication services for the Polish province of Pomorze (the "Polish Corridor"). The Polish government fur-

⁸ Article 21 dealt with railways; see above, p. 151.

⁹ Text in *Ämtliche Urkunden zum Vertrage zwischen der Freien Stadt Danzig und der Republik Polen*, p. 49.

¹⁰ *Ibid.*, pp. 111–13, 141–43.

¹¹ Article 46. See also the provisions of Articles 37 and 38, assigning to Poland exclusive rights over aviation and radio, telegraphic, and telephonic communications in the territory of the Free City (*Ämtliche Urkunden*, pp. 31–33).

¹² For the sake of textual simplicity we shall use the term "postal" service to include telegraphic and telephonic communications, as is the actual case in both Danzig and Poland.

ther declared its readiness—"at any moment and at its own expense"—to take over the administration of Danzig's entire postal services¹³ if requested to do so by the authorities of the Free City.

These extreme but official Polish proposals were, of course, remembered by the Danzigers during the mailbox incident. As Morrow points out correctly,

It is important to recall these Polish projects here inasmuch as they reveal very clearly the intentions animating Polish policy in regard to Danzig both then [1920] and since. If the articles concerning Polish postal, telegraphic, and telephonic rights in the Free City of Danzig as contained in the Polish draft for the Convention [Treaty of Paris] had been adopted in the final text, the result would have been the *de facto* incorporation of the Danzig postal and telegraphic services in those of Poland; and, indeed, Article 46 of the first project proposed that Polish postal charges and stamps should be introduced into the Danzig postal service.¹⁴

The Treaty of Paris, as accepted by Danzig and Poland under pressure from the Conference of Ambassadors,¹⁵ settled a fundamental question in favor of Danzig: the Polish postal service should be a separate organization, apart from the main Danzig organization. Quite naturally, with such a divergence of views and aims as had become apparent, future disagreements between the two governments were to be expected, though no one seems to have anticipated the kind of furor that actually broke out in 1925.

The Treaty of Paris provided that the contracting parties should subsequently conclude a further agreement, designed to complete the treaty and to settle the details of its execution. This so-called Warsaw Agreement, signed on October 24, 1921, contained a section devoted to postal matters dealing with the independence of the Polish postal service from the postal administration of the Free City, the relations of the two organizations, certain privileges of the Polish postal administration, the sale, lease, construction, or use in common of certain facilities, and similar technical items. It added a list of some ten problems to be settled as early as possible by mutual agreements between the two services.¹⁶ Its Articles 168, 1, and 240,

¹³ Articles 47-55; see *Ämtliche Urkunden*, pp. 75-79.

¹⁴ Morrow, *Peace Settlement*, p. 81.

¹⁵ See above, pp. 92-93.

¹⁶ Articles 149-68, 240; *Abkommen vom 24. Oktober 1921 zwischen der Freien Stadt Danzig und Polen zur Ausführung und Ergänzung der Danzig-polnischen Konvention (9.11.20)*, pp. 52-57, 106-7; English translation in Advisory Opinion, *Polish Postal Service in Danzig*, pp. 25, 34-37.

d-f, reserved a number of outstanding questions for future settlement either by mutual arrangement or by means of decisions given by the High Commissioner.

THE FIRST DISPUTE, 1922

In spite of negotiations lasting several months, the two governments failed to come to an agreement regarding the interpretation of Articles 29 and 30 of the Treaty of Paris. Poland, therefore, applied for a decision by the High Commissioner. She claimed that the Treaty gave her the right to establish any post offices she required in or outside the limits of the Port of Danzig, with perfect freedom to transport her mails to and from Poland in any manner she pleased; and to purchase or lease any ground or buildings outside the limits of the port which she might require for the establishment of this postal service. Danzig, on the other hand, claimed that Poland could establish only one post office, which must be within the limits of the port and not elsewhere in Danzig territory, and that Polish postal communications were under certain restrictions as to place and extent.¹⁷ On May 25, 1922, Sir Richard Haking decided:

1. That Danzig must provide Poland with the means of establishing a postal, telegraph and telephone service in the vicinity of the Port of Danzig, if possible in one building, but in any case in one or more adjacent buildings.

2. That Poland has the right of purchasing or hiring from the Government of Danzig, on equitable terms and anywhere in the territory of the Free City, the necessary land or buildings for the establishment of this service, and for its efficient and convenient communication across Danzig territory to any place in Poland selected by her, or to any places agreed upon between the two Governments of Poland and Danzig, but that when making demands under this right Poland is required to show that the purchase or hire of such land or buildings is "necessary" in accordance with Article 30 of the Convention of 9th November, 1920 [Treaty of Paris].

3. That communication by this postal, telegraphic and telephonic service must go direct by any route selected by Poland or any routes agreed upon between the two Governments of Poland and Danzig under Article 150 of the Convention of 24th October, 1921 from the one place selected in Danzig territory, and that no postal, telegraphic or telephonic material or messages can be received or delivered on this route, or these routes, except in the establishment described in (1) above.¹⁸

¹⁷ Decision of May 25, 1922 (*Decisions, 1922*, pp. 15-16)

¹⁸ *Ibid.*, pp. 20-21. [Crusen, *Der Pariser Vertrag*, p. 441.]

In his lengthy statement Sir Richard Haking reasoned that the "real intention" of the Allied Powers was found in Article 29 of the Treaty of Paris, negotiated by them, rather than in the Treaty of Versailles. He laid stress on the fact that Poland had the right to establish "*a post, telegraph and telephone service [not services as stated in some of the arguments] communicating directly with Poland*" [italics by the High Commissioner]. According to the Danzig contention this service was limited to the *port* of Danzig. But what was meant by that term? Sir Richard did not hold a definition necessary because it was quite clear, as he said, that Poland had the right to establish a service involving a postal, telegraph, and telephone office somewhere in the vicinity of the port, and that Danzig was compelled to provide the accommodations necessary for that purpose. In his words, "It is quite immaterial where that office is exactly located, it cannot be in the middle of the river and therefore, it must be somewhere on land. If suitable accommodation cannot to be found in the area which the Danzig Government may wish to describe as the Port of Danzig, it must be found elsewhere."¹⁹

Sir Richard stated further, and very emphatically, that the term in Article 29 "communicating directly" did not mean that Poland could open additional post offices anywhere she pleased in the territory of the Free City. This would be in direct violation of Article 31, which provided that "all other" postal communications within the Free City should be the concern of the Free City. It would create in Danzig territory a dual postal system, which would cause serious financial loss to the Danzig postal service and would demand the purchase or lease of ground by Poland which would not be considered "necessary" under Article 30.²⁰ Poland appealed from this decision to the Council of the League of Nations but withdrew the appeal in consequence of an agreement between her and Danzig as to the interpretation given by the High Commissioner on August 30, 1922, of his Decision of May 25.²¹

The controversy was, however, by no means settled. In a note of December 9, 1922, to the Danzig Senate, the Polish postal administration argued that the effect of the High Commissioner's decision, as interpreted on August 30, was that the sphere of activity of the Polish service should be not merely the "port," in the sense in which the term was used in the decision, but the whole city of

¹⁹ *Decisions, 1922*, pp. 17-18. Italics by the present writer.

²⁰ *Ibid.*, pp. 19-20

²¹ *Zusammenstellung, 1920-1923*, pp. 238-40. See also Advisory Opinion, *Polish Postal Service in Danzig*, pp. 14-15.

Danzig regarded as an administrative unit.²² In other words, Poland put in a strong reservation as to the rightful extent of the Polish postal service in Danzig which indicated clearly that she did not consider the matter closed. Such was the situation when the High Commissioner delivered a decision denying Poland the right to have a letter-sorting office in the main railway station in Danzig.²³

FURTHER POSTAL DISPUTES

At Poland's request, the International Allocation Commission had allotted to her for postal purposes, among other buildings, the former military hospital on the Heveliusplatz. For "reasons which are interpreted differently by the two parties," the building had not yet been occupied by the Polish postal service two years later.²⁴ In the meantime, on December 23, 1922, the High Commissioner decided against the Polish claim to the establishment of a branch of the Polish postal service in the main station in Danzig for the purpose of sorting letters, holding that such work must be done in the building already allotted to Poland or in the Polish postal railway wagons.²⁵ Within a few months' time, however, Danzig granted Poland the desired office on condition that it deal solely with the sorting of postal matter coming from overseas or from Poland, and that it should be closed to the public.²⁶

In the next dispute Poland fared much better. She had received from the Harbor Board, by the vote of the Polish members and the neutral president, a long lease on two buildings in the harbor for a special sorting office for parcels coming from and going overseas. Danzig protested against this extension of the Polish postal service outside its premises on the Heveliusplatz and asked that the lease be annulled; but the High Commissioner decided in favor of Poland. He considered her demands reasonable and definitive, and was further of the opinion that the Harbor Board was competent to judge and weigh the relative value of these buildings to the port for commercial or postal purposes. The decision also stated that the office

²² *Ibid.*, p. 15.

²³ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 14-15

²⁴ *Ibid.*, pp. 17-18 Foster MS cited, p. 195, states that there was some delay in the evacuation of the premises by Danzig

²⁵ *Decisions*, 1922, p. 59 Both Poland and Danzig had asked for this decision (*ibid.*, p. 56). [Crusen, *Der Pariser Vertrag*, p. 442]

²⁶ Agreement of April 18, 1923 (*Zusammenstellung, 1920-1923*, pp. 266-68); Advisory Opinion, *Polish Postal Service in Danzig*, p. 17 Paragraph 3 of the Agreement stated that "this practical settlement of the question in no way changes the legal position."

was not to be used for the receipt and dispatch of any other postal matter, and that it was not open to the public for the transaction of any postal business.²⁷

The two decisions clearly show High Commissioner Haking's opinion that the Polish postal service in Danzig was intended only for communications between Poland and the Polish authorities in Danzig territory or with overseas countries, and not for the public use of all Polish nationals living in Danzig, e.g., the Polish merchants in the port. Apparently, his view was definitely tied up with a desire to avoid serious loss to the postal service of Danzig. He stated:

When it is realized that there are now some 36,000 Polish Nationals residing in Danzig territory, and that this number is daily increasing, it is easy to understand that a great injustice would be done to the Danzig postal service if certain extensions to the Polish postal service were permitted, which might eventually lead to all the correspondence carried on by these Polish nationals passing away from the Danzig postal service.²⁸

The correctness of Sir Richard's opinion was subject to question in the light of the Warsaw Agreement of 1921 and the diplomatic and technical correspondence connected with it.²⁹ At any rate, it had been laid down only in the statement of reasons for the High Commissioner's decisions, and not in their operative portion.

THE LEGAL LINING OF THE STORM CLOUDS

A new and violent dispute which reached its peak early in 1925 now developed. As far back as January 4, 1923, the President of the Senate of Danzig had applied to the High Commissioner for a decision upon Poland's claim that her postal service extended over the whole town of Danzig, a claim which the Senate had held to be unjustified. The High Commissioner had forwarded a copy of this application to the Polish Commissioner-General on January 6, 1923, with a covering letter in which he had stated his opinion that no decision was necessary, as it clearly appeared from the decision already given that Poland had no right to establish a postal service extending beyond the premises allotted to her for the purpose. The Polish reply later in the same month had stated that the Danzig request

²⁷ Decision of February 23, 1924 (*Decisions, 1924*, pp. 19-22). The decision was replaced by an Agreement of August 29, 1924 (*Zusammenstellung, 1924-1927*, pp. 91-92). [Crusen, p. 442.]

²⁸ *Decisions, 1922*, pp. 19-20, 58.

²⁹ J. H. W. Verzijl, "Die Rechtslage der Freien Stadt Danzig," *Ostrecht*, 1926, D. 372.

for a decision was premature, as negotiations concerning this matter were just beginning between Poland and Danzig.³⁰

On December 1, 1924, the President of the Senate of Danzig stated in a note addressed to the Polish Commissioner-General that the Free City had been informed that Poland intended to set its postal service in operation and also to extend it beyond the sphere to which in the opinion of Danzig it was to be restricted. In a letter dated January 3, 1925, Dr. Henryk Strasburger replied affirming the Senate's information. He added that the service would include letterboxes and postmen and that the postal service would include the "port of Danzig" in a territorial sense, bounded for the present purpose by the red line referred to by the High Commissioner in his (railway) decision of August 15, 1921. The Commissioner-General added significantly that Poland regarded the decision of December 23, 1922, as replaced by the Agreement of April 18, 1923. He also stated Poland's view to the effect that Article 168 of the Agreement of Warsaw contained solutions which were binding on the parties—a view contrary to that held by Danzig.³¹

In the meantime, and — so the Danzigers claim — before Dr. Strasburger's letter reached the Senate³²—the Polish postal service proceeded to set up mailboxes bearing Polish inscriptions, an act which led to the serious diplomatic incident that strained the relations between the Free City and Poland to the breaking point.

Developments moved fast. The Free City made application for a decision regarding the Polish postal, telephonic, and telegraphic service in Danzig, with special reference to the use of postboxes and postmen. The application was dated January 6, the day after the red mailboxes had made their appearance in the snow-covered streets of Danzig. The High Commissioner handed down his decision in record time, delivering it on February 2. In the meantime, Mr. MacDonnell had requested the Polish Commissioner-General to remove the mailboxes in order to prevent further incidents and the request had been refused.³³

In his extended statement of the reasons for his decision, Mr. MacDonnell examined carefully the pertinent treaty provisions and especially the Decisions of May 25 and December 23, 1922, handed

³⁰ Advisory Opinion, *Polish Postal Service in Danzig*, p. 31. The text of the letters is reproduced in *Decisions*, 1925, pp. 28–29. [Crusen, pp. 443–44.]

³¹ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 18–19.

³² Statement in *Decisions*, 1925, p. 6.

³³ According to Morrow, *Peace Settlement*, p. 80, and Georg Crusen, "Versailler Frieden-Danzig," in Hatschek and Strupp, *Wörterbuch des Völkerrechts und der Diplomatie* (Berlin and Leipzig, 1921–27), III, 145.

down by his predecessor in office, General Haking. He declared that the dispute was not a new one, and that "stripped of all its technicalities it is whether the working area of the Polish postal service extends beyond the building allotted to that service."³⁴ He considered that the questions now at issue had been decided finally by the two decisions of High Commissioner Haking, especially the earlier one, and Haking's letter of January 6, 1923, to the Polish Commissioner-General. Accordingly he proceeded to reaffirm Haking's decision of May 25, 1922, "in language intended to make explicit its application to the present dispute"³⁵ and decided:

- a) The post, telegraph and telephone service which the Polish Government has the right to establish under Articles 29 and 30 of the Treaty of Paris means one office in the Port of Danzig. This office is that allotted to the Polish Postal Administration in the Heveliusplatz.
- b) Communications by this service from the territory of the Free City to Poland and *vice versa* must go from the buildings mentioned in (a) to the one place or places selected in Polish territory, and no postal, telegraphic or telephonic messages or communications or matter can be received or delivered on this route except in the establishment mentioned in (a). By the words "received" and "delivered" is meant reception or delivery by whatever means employed and does not distinguish between German technical postal terms.
- c) The use of letter boxes outside the limits of the building or buildings mentioned in (a) and of a collection and delivery service by means of postmen in any part of the territory of the Free City is inadmissible and contrary to the decision of 25/5/22/.
- d) The office mentioned in (a) is not intended to deal with all letters posted anywhere in Danzig territory for Poland or abroad whether by Polish nationals or other inhabitants of the Free City, but is intended to enable the Polish authorities legally established in Danzig territory to make up mails and dispatch them direct to Poland or abroad from that Post Office and nowhere else, *via* the Port of Danzig, to countries beyond the sea and *vice versa*.³⁶

This decision by the new High Commissioner, Mr. M. S. MacDonnell, was in line with those of his predecessor, Sir Richard Haking, and was in the main favorable to the contentions of Danzig. It was appealed immediately by Poland, who claimed that the High Commissioner had misinterpreted the Decision of May 25, 1922, and that his findings were inconsistent with the Agreement

³⁴ *Decisions, 1925*, p. 7.

³⁵ Advisory Opinion, *Polish Postal Service in Danzig*, p. 8.

³⁶ Decision of February 2, 1925 (*Decisions, 1925*, p. 18).

of Warsaw.³⁷ The Council of the League of Nations gave extended consideration to the matter at its meeting of March 15, 1925,³⁸ and by resolution requested the World Court to give an Advisory Opinion on the following questions: Is there in force a decision by High Commissioner Haking which decides the points at issue regarding the Polish postal service, and, if so, does such decision preclude reconsideration by the High Commissioner or the Council of all or any of the points in question? This preliminary question related to the doctrine of *res judicata*. If the answer of the Court was negative, the second question was:

- a) Is the Polish postal service at the port of Danzig restricted to operations which can be performed entirely within its premises in the Heveliusplatz, or is it entitled to set up letter-boxes and collect and deliver postal matter outside those premises?
- b) Is the use of the said service confined to Polish authorities and officials, or can it be used by the public?³⁹

Because of the extreme tension in Danzig-Polish relations, the Council asked the Court to deal with these questions in an extraordinary session in order that it might be able to consider the Court's opinion at its June session. The Court was summoned by its President for a meeting in the middle of April and its opinion was handed down on May 16, 1925, after consideration of all the documents submitted by Poland, the Free City, and the League of Nations.

THE ADVISORY OPINION. QUESTION I

The Court reached the conclusion, first, that there was not in force any decision by General Haking which decided the points at issue regarding the Polish postal service.⁴⁰ It was of the opinion that the Decision of May 22, 1925, was final, binding, and actually in force, but that it was

obvious that none of the questions thus submitted to the High Commissioner referred to the points now in dispute; and it is not to be assumed that the decision went beyond these questions. A general question concerning the activities of the Polish postal service outside its premises was neither submitted to the High Commissioner nor decided by him.⁴¹

³⁷ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 20-21.

³⁸ *Official Journal*, 1925, pp. 469-72, 564-65. See *Permanent Court of International Justice*, Series C, No. 8, pp. 268-72, for extracts from the minutes of the council meeting, including a discussion of the Danzig and Polish interpretations of the term *direct action*; brief résumé in Morrow, *Peace Settlement*, pp. 84-86.

³⁹ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 8, 21-22.

⁴⁰ *Ibid.*, pp. 32, 41.

⁴¹ *Ibid.*, pp. 24-26.

The Court was of the opinion that it followed from clauses 1 and 3 of the operative portion of the decision

that Poland may have only one Post Office and that no postal matter can be accepted or delivered during the transit through the territory of Danzig or the transport to or from the port. This is not contested by Poland. The question whether the Polish Post Office may extend its activities outside the building and set up letter-boxes and collect or deliver postal matter, as well as the question whether this postal service can be used by the public, are of course quite different questions.⁴²

In regard to Danzig's contention that the real intention of the High Commissioner in giving his decision was that Poland could have no postal activities outside the building assigned for the purpose, as shown by his letter of January 6, 1923, and also by a *projet d'accord* which he submitted to the parties before giving his decision, the Court considered

that any personal opinion which General Haking may have expressed or any proposal he may have made as a mediator cannot alter the meaning and the scope of the decision. Once a decision has been given, it is only its contents that are authoritative, whatever may have been the views of its author.⁴³

In paragraph 6 of the Decision of December 23, 1922, High Commissioner Haking had expressed an opinion on the scope of the utilization of the Polish postal service; but, the Court considered, "there can be no doubt that the said opinion is irrelevant to the point actually decided by him and therefore has no binding force." The Court continued:

This conclusion, which is drawn from the very nature of judicial decisions, is not affected by Danzig's contention that the decision of the High Commissioner may be considered to be in the nature of a declaratory judgment (*Feststellungsurteil*). In the decision of December 23, 1922, as well as in every other decision of the High Commissioner, the operative portion is clearly distinguished from the statement of reasons; the Court is unable to see any ground for extending the binding force attaching to the declaratory judgment on the point decided to reasons which were only intended to explain the declaration contained in the operative portion of his judgment and all the more so if these reasons relate to points of law on which the High Commissioner was not asked to give a decision.

The opinion expressed by General Haking in paragraph 6 of the decision of December 23, 1922, is relied upon by Danzig also as an interpretation of the true scope and meaning of the previous decision of

⁴² Advisory Opinion, *Polish Postal Service in Danzig*, pp 26-27.

⁴³ *Ibid.*, p. 28

May 25, 1922 In the observations last submitted by Danzig and signed by Professor Verzijl, stress is laid on the fact that General Haking's decisions are logically connected one with the other and are clearly based upon a restrictive conception of the Polish postal service.

This may be so. If General Haking had himself felt constrained to give a decision upon the points now at issue, he very possibly would have settled them in conformity with Danzig's contention. This, however, does not import that these points can be considered as having been decided.⁴⁴

In regard to the third of the three documents on which both parties mainly relied in their arguments,⁴⁵ the High Commissioner's letter to the Polish Commissioner-General of January 6, 1923, the Court was of opinion that the letter "cannot be regarded as, and by its very terms was not intended to be a decision . . . It merely expressed the personal opinion of General Haking, an opinion which, as the Court has already stated, cannot alter the proper meaning of a decision."⁴⁶

Summing up, the Advisory Opinion stated that "there is no decision of General Haking in force dealing either with the question whether the Polish postal service is restricted to operations which can be performed within its premises, or with the question whether its use is confined to Polish authorities and offices."⁴⁷

THE ADVISORY OPINION. QUESTION 2

In its endeavor to arrive at an answer to the second question submitted by the League Council in regard to the extent of Polish postal operations and their possible use by the public, the Court examined the nature and scope of the Polish postal service in the port of Danzig on the basis of the provisions of the Treaty of Versailles, the Treaty of Paris, and the Agreement of Warsaw. It found in them no trace of any provision confining the operation of the Polish postal authorities to the inside of its postal building. The postal service which Poland is entitled to establish in the port of Danzig must be interpreted in its ordinary sense so as to include the normal functions of a postal service as regards the collection and distribution of postal matter outside the post-office. Indeed, any limitations or restrictions in this respect would be of so exceptional a character that they cannot, in the absence of express reservations, be read into the text of treaty stipulations.⁴⁸

⁴⁴ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 30-31.

⁴⁵ *Ibid.*, p. 24.

⁴⁶ *Ibid.*, p. 31

⁴⁷ *Ibid.*, pp. 32, 41.

⁴⁸ *Ibid.*, p. 37. Skibowski, *Die polnische Post im Hafen von Danzig*, p. 50, states that the Polish postal service was free to include pneumatic-tube mail, air

[In fact,] there is nothing in the texts of the international agreements which suggests any limitation of the use of the postal service to Polish authorities and offices In the absence of special provision to the contrary, the post, telegraph and telephone communication must be taken to be intended for the use of the public in the ordinary way. Article 168, No. 1, of the Warsaw Agreement contains certain stipulations from which it may be inferred that the distribution of postal matter outside the post office and especially the use of the service by the public are not excluded it seems quite clear that in the view of the Parties the right to establish a distribution service within the limits of the port is within the competence of the Polish postal service.⁴⁹

The Court continued:

It has been urged on behalf of Danzig that Poland's postal rights in Danzig constitute a grant in derogation of the postal monopoly of Danzig. In the opinion of the court, the rules as to a strict or liberal construction of treaty stipulations can be applied only in cases where ordinary methods of interpretation have failed. It is a cardinal principle of interpretation that words must be interpreted in the sense which they normally would have in their context, unless such interpretation would lead to something unreasonable or absurd. In the present case, the construction which the Court has placed on the various treaty stipulations is not only reasonable, but is also supported by reference to the various articles taken by themselves and in their relation to another.⁵⁰

The Court went on:

It has also been urged that recognition of Poland's claims would result in a serious loss to the revenue of the Free City of Danzig. It cannot be doubted that the institution of a Polish Postal service in the port of Danzig would mean a loss to the Danzig postal monopoly, but this consideration cannot affect the treaty rights to which, in the opinion of the Court, Poland is entitled.⁵¹

The Court also considered that the contracting parties in 1921 regarded the port of Danzig as a territorial area lying within the Free City, a conclusion confirmed by the wording of certain other provisions of the Agreement of Warsaw.⁵²

For these reasons the Court was of opinion in regard to Question No. 2 asked by the League Council:

mail, and wireless telegraphy. Poland has the right to lease a special wire from Danzig to Warsaw for official telegrams by the Agreement of April 22, 1920 (*ibid.*, p. 62; *Zusammenstellung, 1920-1923*, p. 167).

⁴⁹ Advisory Opinion, *Polish Postal Service in Danzig*, pp. 37-38.

⁵⁰ *Ibid.*, pp. 39-40.

⁵¹ *Ibid.*, p. 40.

⁵² E.g., Article 240; *ibid.*, p. 40.

that within the port of Danzig:

- a) the Polish postal service is entitled to set up letter-boxes and collect and deliver postal matter outside its premises in the Heveliusplatz, and is not restricted to operations which can be performed entirely within those premises;
- b) the use of the said service is open to the public and is not confined to Polish authorities and officials.⁵³

THE ACTION OF THE LEAGUE COUNCIL

At its meeting in June 1925 the League Council adopted the Court's Advisory Opinion and appointed a Commission of Experts to delimit the port of Danzig for the purpose of the postal service.⁵⁴ The Commission investigated the question *in loco* and, after hearing both parties, in general adopted the Polish view to the effect that the "port," in the postal sense, should include not only the waters and the waterside technical plant, as urged by Danzig, but the area of the city where the business establishments connected with the port were sufficiently numerous. A green line was drawn marking the postal boundary of the port, subject to future revision. It included the larger part of the business district. The League Council adopted this report⁵⁵ at its September meeting, after a sharp debate between the President of the Senate of Danzig and the Polish Commissioner-General.⁵⁶ Poland was now free to exercise to the full her postal rights in Danzig, as interpreted by the World Court.

THE BASIC ISSUE

The Advisory Opinion has been sharply attacked by various publicists,⁵⁷ who claim, *inter alia*, that the postal needs of Danzig could have been adequately taken care of by the postal service of Danzig. It seems that this charge should be leveled against the pertinent treaty provisions, especially of the Agreement of Warsaw, rather than against the World Court, which merely had the task of interpreting them. So prominent a legal expert as Professor J. H. W. Verzijl of the University of Utrecht, who appeared before the World Court for the Free City in this dispute, concludes that the Court's opinion concerning the extent of the Polish postal service was cor-

⁵³ *Ibid.*, p. 41.

⁵⁴ *Official Journal*, July 1925, pp. 82-87.

⁵⁵ *Official Journal*, December 1925, pp. 1737-40. Skibowski, *Die polnische Post im Hafen von Danzig*, pp. 20-30, contains an elaborate discussion of the meaning of the term "port of Danzig."

⁵⁶ *Official Journal*, October 1925, pp. 1371-77.

⁵⁷ See, for instance, Foster MS, "The Free City of Danzig," p. 200, referring to articles by Robert Dell in the *New Statesman*, XXIV, 497-99, and Otto Loening in *Deutsche Juristenzeitung*, XXX, 205-9, 1538-43.

rect, though he disagrees with the Court on the question of the *res judicata*.⁵⁸

There was also the matter of Danzig's large financial losses, to which attention has been drawn by several High Commissioners⁵⁹ as well as by various authors. We come closer to the core of the conflict, however, when we consider the charge that Poland used the red mailboxes and the mail-delivery men in Polish uniforms "as a challenge to the sovereignty of the smaller and weaker state."⁶⁰ As an English student of Danzig-Polish relations puts it, the incident of the Polish mailboxes "serves to reveal the width of the chasm that yawned between the two neighbors—Danzig and Poland—who were intended to live in amity. The sharpness and irreconcilability of their directly opposing standpoints in all issues arising out of their treaty relationship is thrown into high relief in this particular episode. Moreover, the atmosphere and manner in which their controversies were conducted is patently revealed in the course of this dispute and especially in the discussions between their representatives at the meetings of the Council of the League of Nations. Danzig is found to be on the defensive; a defensive that can also assume the character of an offensive-defensive. Poland is shown to be striving persistently to place upon her treaty obligations and rights in regard to Danzig an interpretation that corresponds as nearly as possible to her original standpoint in the Danzig question"⁶¹ [as revealed in the two Polish drafts for the Treaty of Paris].

During a period of more than three years the High Commissioners decided—or so they thought; the World Court advised, the experts consulted, and the Council of the League of Nations spoke the final word. The Council could now consider the question officially closed; while the Poles and Danzigers were free to get busy once more at the task of living together.

⁵⁸ See his "Die Rechtslage der Freien Stadt Danzig," *Ostrecht*, 1926, p. 372. Dr. Verzijl considered, however, that the League Council went too far when it included the main railway station in the port district. For a strong criticism of the Advisory Opinion and the decision of the League Council, see Georg Crusen in Hatschek and Strupp, *Wörterbuch des Völkerrechts und der Diplomatie*, III, 145.

⁵⁹ See *Decisions*, 1922, pp. 19–20, 58 (Haking); 1925, pp. 15–16 (MacDonnell), and Count Gravina's Report of August 27, 1931, on Danzig-Polish Relations (League Document C. 502. 1931. I, p. 9), referring to the claim of the Danzig Senate that the Polish postal service resulted in an annual loss of revenue to Danzig of 1,200,000 Gulden. Foster MS, "The Free City of Danzig," p. 202 n., states that Poland carried on a "rate war," in spite of Articles 163–67 of the Warsaw Agreement intended to provide for equality of postal charges.

⁶⁰ Foster MS, p. 200.

⁶¹ Morrow, *Peace Settlement*, p. 89.

II

THE CUSTOMS UNION

The desire to effect Poland's free and secure access to the sea resulted in the inclusion of the Free City of Danzig within the Polish customs frontier and the establishment of a free area in the port. The customs union was of tremendous influence on the economic life of Danzig and of considerable importance to the Polish Republic; it precipitated also a large number of difficulties,¹ some primarily economic, and some plainly political. About a third of all Polish foreign trade passed through the port each year,² a sizable portion of the governmental revenue of the Free City came from her share in the customs receipts;³ and the policies of the customs union, determined unilaterally by Warsaw, deeply affected agriculture and industries in both the small Free City and the vast hinterland, regions of decidedly divergent economic character.

THE TREATY PROVISIONS

The Treaty of Paris provided,⁴ in execution of the intentions of Article 104 of the Treaty of Versailles:

Article 13: The Free City of Danzig is included within the Polish customs frontier; Poland and the Free City form one customs area under the Polish customs legislation and tariff.

Article 14: The territory of the Free City of Danzig shall for customs purposes form one administrative unit under the charge of officials of the Free City and under the general direction of the Polish central customs administration; the Polish government shall, through Polish inspectors attached to the Danzig personnel, participate in the inspection of the customs service. These inspectors, who shall be paid directly by the Polish government, shall communicate their observations to the Polish central customs administration.

¹ Martin Joseph Funk, *Die Danzig-Polnische Zollunion* (Jena, 1926), p. v.

² Unsigned, *Poland and Danzig* (edited by the Polish Research Centre, London, 1941), p. 27.

³ For instance, 19.2 per cent for the fiscal year 1924-25, according to Funk, *op. cit.*, p. 117.

⁴ For the customs provisions as originally proposed for inclusion in the Treaty of Paris by Danzig and Poland, respectively, see *Ämtliche Urkunden*, pp. 35-37, 39-42, 81-85; they are compared, in part, in Funk, *Die Danzig-Polnische Zollunion*, pp. 37-40 [Crusen, *Der Pariser Vertrag*, pp. 189-90.]

Customs forms, the printed part of which shall be drawn up in German and in Polish, may be filled in alternatively in German or in Polish.

In order to assure the service, the Free City shall provide a sufficient number of persons acquainted with the Polish language.

Article 15: The Danzig customs administration shall be answerable to the Polish customs administration for customs receipts and shall be responsible for levying them, as also for the execution of the customs laws.

The expense of administration borne by the Free City shall be met out of the total customs receipts levied in the territory of the Free City.

Customs dues shall, at the choice of the persons discharging them, be paid alternatively in Danzig or Polish currency.

The accounts shall be audited at the end of every quarter, and Poland shall allow the Free City a fixed percentage of the net receipts; this percentage shall be determined in accordance with the provisions of Article 17.

Article 16 was of minor importance. Article 17 provided for early negotiations between Danzig and Poland in regard to the application of Polish customs laws and tariffs; for the adaptation of Danzig laws to Polish legislation on monopolies and, in general, on all dues and indirect taxation; for regulations concerning the rate of exchange in the payment of customs duties; and for the determination of Danzig's share in the net receipts. In fixing this percentage, the proportion of the customs duties levied on goods destined for consumption in Poland and in the territory of the Free City, respectively, was to be taken into account.

Article 28, not directly connected with the treaty provisions concerning the customs union, stated that "at all times and in all circumstances Poland shall have the right to import and export *via* Danzig goods of any kind whatever not prohibited by Polish law."

The Agreement of Warsaw of 1921 added particulars and detailed regulations to these provisions. According to it, the Danzig customs service was organized by the Senate, but its administration (*Landeszollamt*) was subordinate to the Polish central customs administration. The Danzig customs officials came under the Danzig laws governing government officials and were subject to the orders and supervision of their Danzig superior authorities. Poland supervised the customs administration through Polish customs inspectors, who were "co-ordinated" with the Danzig administration, being of neither inferior nor superior position. They were headed by the chief Polish customs inspector for the territory of the Free City, an official appointed by Poland. The Polish customs inspectors had the right to supervise the administration of the Polish customs laws and

tariffs, but they were not entitled to give orders to the Danzig customs officials. Provision was made for certain steps to be taken in case of complaints on the part of the Polish inspectors about official actions of the Danzig officials. If an agreement was not reached, final action lay with the Polish central administration.⁵ Each of the two customs administrations bore the cost of its own service.⁶

The customs union went into effect on January 1, 1922.⁷ Danzig and Poland reached an Agreement on September 1, 1923, as to the effect of the provisions of the Treaty of Paris (basic to the Agreement of Warsaw); as mentioned, the Danzig customs service was placed in a position of subordination to the Polish central customs administration. It formed an administrative unit with officials of the Free City in charge, and included in its competence matters of recruitment, discipline, and general organization. It was responsible to the Polish customs administration for the execution of the customs laws. Polish customs legislation and tariffs were to be the expression of that country's customs and economic policy, of which Poland must be the sole arbiter. The economic requirements of Danzig in the realm of customs matters was to be one of the factors in the economic policy of Poland. All general measures in the nature of customs legislation, tariffs, and statistics applicable to all Polish customs units were *ipso jure* applicable to the Danzig unit. No difference of opinion between the Danzig unit and the Polish central administration as to the application or execution of any of these measures was to be allowed to cause any delay or difficulty in their application; they were to continue in force until a settlement of the difference had been reached by the procedure laid down in the treaties.⁸

STATE MONOPOLIES

The existence of state monopolies in Poland and later in Danzig created special customs problems. The Warsaw Agreement provided for special treatment of these goods and those subject to indirect taxation while passing through the customs until such time

⁵ Section VI, Articles 197-205; *Abkommen vom 24 Oktober 1921 zwischen der Freien Stadt Danzig und Polen zur Ausführung und Ergänzung der Danzig-polnischen Konvention* (9 11 20), pp. 66-71; also Agreement of December 21, 1921, in *Zusammenstellung, 1920-1923*, pp. 7-21.

⁶ *Abkommen vom 24 Oktober 1921 . . .*, Article 206.

⁷ Article 197, Warsaw Agreement. A few exceptions were temporarily permitted under the Supplementary Agreement of December 21, 1921 (*Zusammenstellung, 1920-1923*, pp. 7-11); Funk, *Die Danzig-Polnische Zollunion*, pp. 40, 72. [Crusen, pp. 199-200]

⁸ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 302-12).

as the pertinent Danzig laws would conform to those of the Polish Republic.⁹ The Agreement listed the existing monopolies as none in Danzig and as those of spirits, sugar, salt, saccharin, tobacco, tobacco products, and mineral oils in Poland.¹⁰ In 1927 Danzig created a state monopoly for tobacco and in 1930 one for matches. The former became the basis for a twenty-year, 6½ per cent foreign loan of 47,500,000 gulden, floated in 1927; and the match monopoly backed \$1,000,000 worth of 6 per cent secured, external-sinking-fund gold bonds, issued in 1930 and due in 1965. The income from both monopolies was considerable.¹¹

POLAND'S POWER OVER CUSTOMS POLICY

The Warsaw Agreement provided further that the Free City should introduce on April 1, 1922, all Polish restrictions of a general nature on commercial imports and exports and give them the force of Danzig law. Poland, in turn, agreed to inform Danzig of all such present and prospective restrictions. If Danzig should protest within a period of twenty days and if the parties were unable to come to an agreement on such existing or prospective restrictions, the Free City was to inform Poland what maximum amounts of goods were to be permitted for imports or exports for consumption by Danzig's population and the requirements of her industries, agriculture, and trades, respectively, within the limits of their productive capacity. Poland was to recognize the specified maximum amounts as binding.¹² As Danzig merchants often experienced difficulties in having these import contingents recognized as valid at the Polish customs boundaries, they formed the practice of importing them only across the Danzig customs frontiers, that is, by sea.¹³

Danzig was further entitled to "export the products of her own industry, her own agriculture, and her own trades [crafts], in spite of any possible general export prohibitions in so far as nothing to the contrary is specified in Section VIII, Articles 220-223," dealing with the supply of Danzig with Polish food, fuel, and raw materials.¹⁴ In addition, all limitations on the traffic in goods between

⁹ Article 207. [Crusen, *Der Pariser Vertrag*, pp. 223-42.]

¹⁰ Appendix to the Agreement, *Abkommen vom 24. Oktober 1921* . . . , p. 74; the list of articles subject to state monopoly was changed repeatedly (Funk, *Die Danzig-Polnische Zollunion*, p. 42 n.).

¹¹ Foster MS, "The Free City of Danzig," p. 140, citing figures from the *Danziger Statistisches Taschenbuch* of 1934. Goods subject to indirect taxation in the two states are listed in Funk, *op. cit.*, pp. 42-43.

¹² Articles 211-12. [Crusen, pp. 202-4.] ¹³ Funk, *op. cit.*, p. 79 ¹⁴ Article 213

Poland and the Free City were to be abolished, effective April 1, 1922.¹⁵

As a result of these provisions, the Free City lost most of her freedom of action in the field of control over her own economy by means of tariff laws and regulations—a very important aspect of state sovereignty. On the other hand, Poland's corresponding power over Danzig's economic life—as exercised by customs legislation—was subject only to a few restrictions. As mentioned, Danzig had recognized this fact in an Agreement with Warsaw to the effect that Poland's "customs legislation and tariffs are the expression of that country's customs and economic policy of which Poland must be the sole arbiter."¹⁶ While Danzig retained the right to submit to the High Commissioner any differences arising between her and Poland in regard to these treaties, it was clear that Poland's rights were extensive and, generally, supreme. As High Commissioner MacDonnell observed in the reasoning accompanying his first Decision dealing with customs disputes, Article 13 of the Treaty of Paris intended that "whatever was the customs policy and legislation of Poland should *eo facto* and *eo jure* become that of the Free City."¹⁷

Poland was, therefore, fundamentally free to choose such a tariff policy as she might consider best in view of her own aims and purposes. At the same time, however, she had certain obligations toward the smaller partner in the customs union, and the Free City did enjoy some rights

PROTECTION OF DANZIG INTERESTS

The Warsaw Agreement provided that the Polish Republic would protect the interests of the Free City as far as possible in its customs laws and tariffs.¹⁸ The exact meaning of such general provisions was, of course, subject to varied interpretation; and Danzig and Poland soon proceeded to disagree.¹⁹ High Commissioner MacDonnell pondered the question, stating frankly that he found some difficulty in interpreting this article:

If it means no more than that Poland is to judge of the degree of protection it is possible to afford Danzig and that if a certain policy is necessary for Poland it relieves Poland of any obligation to modify that

¹⁵ Article 215.

¹⁶ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, p. 306).

¹⁷ Decision of November 6, 1924 (*Decisions, 1924*, p. 49).

¹⁸ Article 197, paragraphs 4-5. [Crusen, pp. 205-7.]

¹⁹ Their divergent points of view are described in *Decisions, 1924*, pp. 43-45.

policy in Danzig's favour then the guarantee given to Danzig is not worth much.

If on the other hand it were to mean that Poland could not introduce a policy unless it were possible to make that policy square with Danzig's interests then Poland might find her hands absolutely tied in any given case.

Proceeding in his reasoning, he concluded:

I think the intention was to show that Danzig had interests which might be different to Polish interests, that account would be taken of them and that Danzig could expect Poland to make such modifications in her customs regulations as are compatible with a reasonable protection of the interests of both, as for example if an insignificant loss to Poland would bring an important gain to Danzig, then I think Danzig could expect Poland to bear the insignificant loss. If, however, the interests of both are incompatible, then in the last resort Polish interests must prevail. Whether they are incompatible or not would be an ascertainable matter of fact.²⁰

The interests of the Free City were further safeguarded to some degree by the provision of the Warsaw Agreement that before the introduction of changes in the customs regulations the representatives of the government and the interested circles of Danzig should be heard to the same extent as the interested circles of the Polish Republic²¹

By this provision Poland was again subjected to an obligation toward Danzig; but its extent was left unclear, with a loophole wide open. As the High Commissioner pointed out, the provisions impose obligations upon Poland. The representatives of the Government and trade of Danzig are to be heard on customs matters (*Zollangelegenheiten*) to the same extent as are the representatives of Polish trade before customs changes are introduced, so that if Polish circles are not consulted those of the Free City have no right to be heard either. This is to a certain extent a one-sided arrangement since any given customs policy may be suitable to Poland and quite unsuited to Danzig, but if Polish circles have not been consulted Danzig has no claim to be consulted either. It may also be difficult to say whether technically Polish circles have been consulted or not. In this particular case I am informed no consultation took place. Officially there may have been no open discussions with the commercially interested parties but it is reasonable to imagine that the Polish Government would be aware of the views of the interested and expert Polish circles when making changes in the customs tariff or regulation.²²

²⁰ *Decisions*, 1924, pp 51-52.

²¹ Article 197, paragraph 4.

²² *Decisions*, 1924, p. 51.

EXPORT DUTIES

A stronger provision of the Warsaw Agreement gave Danzig the right to export the products of her own industry, agriculture, and manufactures in spite of all general-export prohibitions.²³ In the summer of 1924 a Polish law was adopted empowering the Minister of Finance in Warsaw to impose export duties—which Poland had not used before—and to adjust them from time to time to the economic situation. Danzig appealed in protest to the High Commissioner, claiming that this law was in violation of the Warsaw Agreement. She argued that export duties were not referred to in the Treaty of Paris or the Warsaw Agreement and that “if it had been the intention to subject Danzig to Polish legislation regarding export and transit duties such an important matter would have had to have been mentioned ‘*expressis verbis*.’ ” Also, even if the Polish law did not run contrary to the agreements in force, Poland was “compelled to protect Danzig’s interests as much as possible under Article 197 (5) of the Agreement of Warsaw which so far from doing she has seriously harmed.”²⁴

The High Commissioner rejected Danzig’s fundamental claim that Poland could impose only import duties, observing that

. . . in the largest sense of the expression, Danzig has been included within the customs frontier of Poland and for the Free City Polish customs policy is the deciding factor in the last resort. It cannot be contended that by the absence of a specific mention of export dues in the agreements in force, Poland was for all time prohibited from altering the customs policy in force when these treaties were made . . . Export and import are closely interconnected and it is obvious that a country must be able to adapt them to each other and both to her own economic requirements.

But even if Danzig is included within the Customs frontiers of Poland the interests of the trade and industry of the Free City are entitled to recognition and protection and have in effect been recognized and protected, in so far as permission to export and import was concerned, by the arrangements made with regard to them in the Treaty of Warsaw.

For example I do not think that Poland would be entitled to place an export duty on the product of a Danzig industry for the simple purpose of raising revenue from it or for the purpose of fostering that particular industry in Poland, at the expense of Danzig, e.g., shipbuilding, nor would Poland be entitled to put an export duty for revenue or other purposes, on the product of an industry which existed only in Danzig.

²³ Article 213

²⁴ *Decisions, 1924*, pp. 43–44

It is not, however, suggested in this case that any of these export duties are of this nature, but there is a certain apprehension in Danzig that if it is admitted that Poland has a right at any and every time to impose duties on any and every article this right might be used to the grave prejudice of Danzig industry.²⁵

The High Commissioner decided, therefore, that the Polish customs law of July 31, 1924, providing for the imposition of export duties, applied to the territory of the Free City.²⁶ Danzig's appeal against this Decision was rejected by the League Council, which upheld the High Commissioner in a Resolution of March 13, 1925.²⁷

EXPORTS

However, there was an additional factor of considerable importance which the High Commissioner also had to consider. As already mentioned, Danzig was entitled under existing treaty provisions to export the products of her own industry, agriculture, and manufactures in spite of general export prohibitions. The High Commissioner, therefore, decided further that in regard to the application of the export duties to these products an agreement must be made between Poland and Danzig. Pending its conclusion, Danzig was to submit to Poland for immediate consideration the pertinent cases where the application of the export duties had had the effect of a prohibition on export and Poland was to make the necessary arrangements to free these products from the effect of the law.²⁸

The economic interest of Danzig in this matter was considerable, especially in regard to her grain, seed, wood, and ship-provisioning business and her horse-raising and beet-root industries, which were chiefly affected.²⁹ The High Commissioner stated in this connection:

. . . an export duty may in effect become an export prohibition if it is so adjusted as to make export unprofitable or impossible as it is alleged to do by the Free City in the case under notice. It is clear that it was intended to give Danzig a free hand to deal with the products of her own industry and agriculture and that no limit of time was placed to this freedom, so that if in effect an export duty acts as a bar its imposition is an infraction of the intention of Article 213.

. . . I think Danzig can claim special consideration, firstly because the conditions of Danzig trade and industry are not necessarily the same as those of Poland and what may press heavily on so small a community

²⁵ *Decisions*, 1924, pp. 49-50.

²⁶ *Ibid.*, p. 57.

²⁷ *Official Journal*, April 1925, pp. 476, 573-75. [Crusen, *Der Pariser Vertrag*, p. 204.]

²⁸ *Decisions*, 1924, p. 57.

²⁹ *Ibid.*, p. 54.

as the Free City will not be felt to a proportionately equal extent in so large a country as Poland, secondly because the amounts involved in the case of Danzig compared with those of Poland are comparatively insignificant as is admitted in the Polish case, and thirdly because in justice Poland is under an obligation to alleviate as far as possible any hardships resulting from the inclusion of Danzig in the Polish customs frontiers since Danzig's inclusion was intended to be for Poland's benefit but not for Danzig's disadvantage. The obligation of the Free City to come into line with Polish Customs policy is to some extent counter-balanced by the undertaking Poland has given to safeguard the interests of the Free City as far as possible.

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The case of the horse breeders seems to be more serious. The export duty in some cases exceeds the value of the horse. Some 2,400 horses have been exported in the last three years and the class is stated to be a kind for which there is no demand in Poland at a price remunerative to the industry, whereas the foreign market will take Danzig horses freely.

If the Polish market does not want them there seems to be no object in placing difficulties in the way of their export abroad and this appears a case where an exception might be made in favour of Danzig, under such guarantees as would prevent horses being exported from Poland.³⁰

THE CUSTOMS ADMINISTRATION BY DANZIG OFFICIALS

While Poland had the right to decide policy for the customs union, the Free City was in charge of the customs administration, "under the general direction of the Polish central customs administration,"³¹ but acting through officials recruited, appointed, supervised, and paid by Danzig.³² This divided authority in the customs administration—officered by Danzig officials partly under the control of their own supervisors of Danzig nationality and partly under the supervision of the higher Polish customs officials—led to Polish suspicions and charges which are best summarized in the words of Poland's representative at the meeting of the Council of the League of Nations on July 4, 1923:

The Danzig Customs organization has virtually proclaimed itself completely independent of the Central Polish Administration. Not only are the regulations of the Finance Ministry at Warsaw the object of constant criticism on the part of the Danzig authorities, but the latter have often definitely refused to execute them. In matters of Customs procedure, the Danzig Customs Office often refuses to carry out the

³⁰ *Ibid.*, pp. 53-55.

³¹ Treaty of Paris, Article 14. [Crusen, pp. 207-15]

³² See above, p. 171

regulations and instructions of the Warsaw authorities, on the ground that these regulations and instructions are not based upon Polish Customs regulations. In this way, the Danzig Customs Office assumes the right to determine the legality of regulations issued by the Polish Customs Administration. While the Danzig Customs Office regards the Senate of the Free City as the sole authority to which it owes obedience, the Senate constantly requests the Polish Government to enter into negotiations with it, and suggests the application of Article 39 of the Treaty of November 9th, 1920, to any disputes which arise, while, in the meantime, it continues to put obstacles in the way of the observance of Polish Customs regulations in Danzig territory. Things have come to such a pass that Customs officials hold public meetings at Danzig to discuss the regulations of the Polish Government and threaten to get rid of the Polish inspectors at Danzig and to boycott Polish citizens. When the Polish Government protested against such disloyal demonstrations, the Senate replied that the Polish Government was responsible for having provoked them by making demands which, it was alleged, were unjustified. Further, the chief financial official, who is the member of the Senate responsible for financial administration, hurled the following challenge at the Polish Government from the tribune of the Danzig Volkstag: "Hands off the Customs Administration."

In view of this state of affairs, it must be admitted that, in so far as the Customs question is concerned, the Versailles Treaty and the Treaty of November 9th 1920 have not up to the present been executed, and that in the Danzig sector there is a wide gap in the Customs frontiers of Poland.³³

For the time being, this dispute was settled by the Agreement of September 1, 1923, already referred to, which clarified the questions regarding the effectiveness of Polish customs laws and regulations in Danzig territory and provided in some detail for the treatment of infractions of the customs regulations by the Danzig personnel.³⁴

TWO YEARS—WITH NO DISPUTE

During the late 1920's the general relations between Poland and Danzig improved considerably, perhaps, as Mr. Foster suggests, because of their increased prosperity and the influence of more conciliatory governmental leaders in both states.³⁵ In the Free City, the Socialist party was in office from 1927 to 1930, with a less unfriendly policy toward Poland than that shown by its predecessors.

³³ *Official Journal*, August 1923, p. 1002.

³⁴ See above, pp. 172-73.

³⁵ Foster MS, "The Free City of Danzig," p. 146.

The High Commissioner did not deliver a single decision in the years 1928 and 1929, and in his General Report to the League of Nations he was led to state in 1929 that "an atmosphere of calm peaceful development and of material progress prevails at Danzig . . . while the fear of Polanization has disappeared."³⁶

Such a situation seemed too good to last long and, indeed, the political atmosphere began to change. Internationally, the general economic situation began to grow worse, Nazism grew stronger in Germany and in Danzig, and old antagonisms between the Free City and Poland cropped up again. New and bitter disputes arose over various questions, including the Danzig customs administration, the marketing of Danzig goods in Poland, and the importation of Polish agricultural products into the Free City. With the help of a Decision, reports of experts, and lengthy negotiations they were finally settled by the late summer of 1934.

By 1929, Warsaw had initiated a definite and continued endeavor to secure closer control of the Danzig customs administration. As a means of pressure she placed severe restrictions on the importation of Danzig goods into Poland. The Free City, however, refused to yield what autonomy in the customs administration was hers by treaty right and in turn proceeded to limit the import of Polish foodstuffs.

In the course of this conflict the Poles accused the Danzigers of engaging in a certain amount of smuggling, for instance across the frontier with East Prussia, where border-town visitors were able to buy German clothing, shoes, and other articles at a lower price and of better quality than those made in Poland. The charge implied, of course, that the Danzig customs officials along that part of the border were guilty of laxity, even of connivance.³⁷

Additional factors involved on both sides made the situation highly complex. Poland was bent upon a policy of economic self-sufficiency, supported by high tariffs and other import restrictions. As she was intent upon building up her own production, she was anxious to receive less from other states, including Danzig. On the other hand, the costs of agricultural production in the territory of the Free City were considerably higher than in Poland, and Danzig, at least in part, meant to help her farmers against the competition of the cheaper and abundant Polish farm products.³⁸

³⁶ League Document C.221.1929.I, pp. 7, 17.

³⁷ Foster MS, "The Free City of Danzig," pp. 147-48. Mr. Foster feels that there was some basis for the Polish charge of smuggling.

³⁸ *Ibid*, p. 148

THE STRUGGLE OVER THE CUSTOMS ADMINISTRATION

In the fall of 1931 the Polish government asked the High Commissioner for a decision against certain alleged practices on the part of the Danzig customs administration. She charged (1) that the customs officials made it difficult or impossible for the Polish inspectors to exercise their control activities; (2) that they failed to apply certain measures of the Polish central customs administration; (3) that they exceeded their power in granting special permits and exemptions applying to the import of explosives, to the import of goods of the passive finishing trade (*Veredelungsverkehr*), and to the duty-free import of goods in trade across the frontier (*Grenzverkehr*); (4) that there was a lack of customs officials who could speak Polish; and (5) Warsaw claimed damages to the Polish state of over 54 million zloty as the result of permits granted by the customs authorities to various firms engaged in the passive finishing trade (that is, the import of raw or partly finished materials from abroad, working or transforming them in Danzig, and marketing them in Poland; or the export of goods for the purpose of processing prior to their re-import) and of the exemption from customs duties of goods in the border trade.³⁹

High Commissioner Helmer Rosting issued his Decision on November 20, 1932, or over a year after the Polish request, after consultation with a special Committee of Experts, formed with the consent of Poland and Danzig and consisting of a Hungarian, a Belgian, and a Hollander. As to (1) he decided that Poland did not furnish sufficient evidence to support the allegation that the Danzig customs officials had hindered the work of the Polish inspectors by refusing them access to documents and samples and by certain other methods. However, he did find obstruction in the verification of customs clearances, as charged by Poland. He held as to (2) that the Danzig officials had failed to observe Polish regulations demanding certificates of origin on imported goods and had refused to recognize Polish import permits without additional permits issued by Danzig. But he rejected the Polish complaint against the admission of certain publications which, in the view of the Polish government, were hostile to Poland or were directed against the legal status existing in Poland and the Free City. Under (3) he decided that the Danzig customs administration had exceeded its powers in regard to the establishment of bonded warehouses and

³⁹ Statement in the Decision of November 20, 1932 (*Decisions, 1928-1932*, pp. 58-61).

in granting licenses after a certain date to firms engaged in the passive finishing trade; also in handing over goods before payment of customs duties, contrary to Polish regulations. On the other hand, Danzig had not acted incorrectly in issuing regulations concerning sea-borne goods, issuing permits for the import of explosives, or allowing the duty-free import of certain goods in the border trade (*kleiner Grenzverkehr*). As to (4), he ruled that Poland had not proved that an insufficient number of Polish-speaking officials had hindered the smooth running of the customs administration. And in regard to (5) Poland's claim to damages, the High Commissioner held that the problem could be settled only when the pertinent questions tied up with it had been solved.⁴⁰

Both parties appealed to the League Council, which in a Resolution upheld the High Commissioner.⁴¹ Poland's claim to damages was suspended in 1934.⁴²

DISPUTE OVER THE PASSIVE FINISHING TRADE

A bitter controversy arose in 1931 over the question of the passive finishing trade (*Veredelungsverkehr—trafic passif de finissage*). Under the Warsaw Agreement a number of Danzig firms retained their right of importing duty-free raw materials or partly finished products for the purpose of exporting the processed or finished products, also their right of exporting goods to a foreign country for the purpose of finishing or processing them and re-importing them into the Danzig customs territory duty-free.⁴³ These products included chocolate, jewelry, soap, and other articles.⁴⁴

For the purpose of aiding her own industries, Poland acted to restrict the importation of goods from the Free City by restraining Danzig's importation of raw materials or partly finished goods. Danzig complained of the various steps taken by the Polish government and asked the High Commissioner for a Provisional Decision in the matter. Count Gravina accepted *in toto* the expert opinion rendered by M. A. Fattering, a Hungarian Ministerial Director who, with the assistance of the experts designated for the purpose by Danzig and Poland, had examined the questions involved and had decided, on March 29, 1932, that Poland had been guilty of direct

⁴⁰ *Decisions, 1928-1932*, pp. 62-66.

⁴¹ February 1933; *Official Journal*, February 1933, pp. 225-31.

⁴² The High Commissioner's *Report* for 1934, League Document C.42.1935.VII, Annex III. [Crusen, *Der Pariser Vertrag*, p. 211.]

⁴³ Appendix II, Article 13; *Abkommen vom 24. Oktober 1921 . . .*, pp. 81-82.

⁴⁴ Foster MS, "The Free City of Danzig," p. 150.

action against Danzig in the sense of the Resolution of the League Council of March 13, 1925. At the same time, he disregarded Poland's charge that Danzig had committed direct action.⁴⁵ Poland appealed against the Provisional Decision but later withdrew her appeal.⁴⁶

When Danzig asked the High Commissioner for a Decision confirming her right to export to Poland the products of her finishing trade, the new High Commissioner, M. Rosting, found in her favor. Utilizing the conclusions of a Committee of Experts appointed at his request by the League and including M. Calmès, Member of the Supreme Council of the Belgian-Luxembourg Economic Union, Mr. Fattinger, and M. Nederbragt, Director in the Ministry of Foreign Affairs of The Netherlands, he decided (in the third Decision handed down on the same day, November 20, 1932):

Danzig has the right to market in the territory of the Polish Republic goods allowed to be imported into the territory of the Free City of Danzig for the requirements of Danzig industry, agriculture and artisan trades [*Handwerk*] within the limits of their productive capacity [Article 212(3) of the Warsaw Agreement] in so far as such goods are regarded as nationalized by reason of the processing or finishing work they have undergone.⁴⁷

Poland was further required in the Decision to rescind all measures taken against the marketing of such goods and to release for sale any articles that had been seized.⁴⁸ Warsaw appealed against this Decision, but the League Council again upheld the High Commissioner.⁴⁹

A NEW POLISH DEMAND

In the meantime Poland asked for a decision to the effect that Articles 211-14, 218, and 219 of the Warsaw Agreement, dealing with the regulation of imports and exports and the determination of quotas for Danzig, were abrogated ("sont abolis") and Polish ministerial decrees substituted. Some of these decrees were already in force in Poland, while others were to be issued at later dates. Import and export restrictions existing in the territory of the Free City under Danzig law were to be repealed simultaneously. Poland based her request on Article 241 of the Warsaw Agreement, which

⁴⁵ *Decisions, 1928-1932*, pp. 42-44.

⁴⁶ *Official Journal*, July 1932, pp. 1179-85, 1208-12.

⁴⁷ *Decisions, 1928-1932*, pp. 71-73. [Crusen, *Der Pariser Vertrag*, p. 203.]

⁴⁸ *Ibid.*, p. 73.

⁴⁹ *Official Journal*, February 1933, pp. 234-36.

provided for possible changes in its provisions by mutual consent or, after October 1, 1931, by Decision of the High Commissioner. With the help of a technical and legal opinion by the Committee of Experts, consisting of Messrs. Calmès, Fattinger, and Nederbragt, High Commissioner Rosting decided against the Polish request, holding that the abrogation of the mentioned Articles of the Warsaw Agreement and their substitution by Polish legislative provisions "was not necessary to safeguard the legitimate economic interests of Poland" He held, however, that Poland had the right to participate in the periodic determination of the Danzig quotas through equal representation with Danzig on a new commission entrusted with this job and meeting under the chairmanship of a neutral expert, designated by the High Commissioner and entitled to cast the decisive vote in case of a tie.⁵⁰ Both Poland and Danzig appealed to the Council, which decided to postpone a decision in the matter until it had been examined by experts, especially in connection with other proposed changes in the Warsaw Agreement.⁵¹

POLISH PRESSURE

Poland thus failed in her attempt to abolish what treaty safeguards Danzig enjoyed in regard to her finishing trade and to make her totally subject in this respect to administrative decrees issued in Warsaw. There were other methods available, however, to work toward the same ends. They are best summarized in the words of Mr. Andrew B. Foster, an American student of the Danzig problem:

Meanwhile the boycott instituted by the Polish Government was having disastrous effect on many branches of industry and commerce in the Free City. Having failed to secure the right to prevent the marketing of Danzig Commodities in her territory, Poland succeeded by means of a system of special customs inspection in greatly curtailing their amount. Only the products of those Danzig firms which consented to the inspection were permitted to cross the frontier into Poland; and it was claimed by the Government of the Free City that several hundred companies, which refused to submit to the inspection or which failed to satisfy its requirements, afterwards went bankrupt. In order to be placed upon the approved list the firm had to agree to admit Polish customs inspectors to its premises and to exhibit its books and processes and wares to their scrutiny; above all, it was obliged to demonstrate that its products were being manufactured from materials especially

⁵⁰ (Second) Decision of November 20, 1932 (*Decisions, 1928-1932*, pp. 67-70)

⁵¹ *Official Journal*, February 1933, pp. 232-34.

authorized for the passive finishing trade. The use of raw or partly finished goods from Germany, for example, was prohibited;

This prohibition, Mr. Foster adds in a footnote, derived from the Polish-German trade war which began in 1926.

and any company found in possession of them was put upon the black-list and denied the right to sell its products in Poland. Included among forbidden materials were those which did not enter into the actual manufacturing process but which were only remotely connected with it. For instance, the automobile delivery trucks of the company in question could not be repaired at a garage which was on the black-list; nor could the company use stationery procured from an unauthorized shop. It is not difficult to imagine the exasperation and expense to which this system gave rise; without doubt the Polish Government adopted it less for its own sake than as a means of exerting pressure on the Free City. Since northwestern Poland, and the Province of Pomorze in particular, form the natural region of consumption for Danzig wares, such restrictions were a grave menace to the industrial life of the city. Poland was endeavoring, as has been remarked, to gain a greater measure of control of the Danzig customs administration, and it became apparent that she would not consent to abandon the inspection system unless concessions were made by the Free City. The Polish boycott, in so far as it consisted in halting Danzig goods at the Polish-Danzig frontier or in confiscating them after they had crossed it, was at its worst during 1932 and the first part of 1933; following the High Commissioner's Decisions of November 20, 1932, and the stand taken by the Council on February 1, 1933, it was relaxed. The inspection system continued in force, however, as rigorously as before, and was in effect nothing less than a form of boycott.⁵²

THE DANZIG-POLISH "TREATIES OF PEACE"⁵³ OF 1933 AND 1934

After the National Socialist party had gained control of Danzig in 1933, governmental policy toward Poland underwent a sudden change. The two governments showed willingness to come to an

⁵² Foster MS, "The Free City of Danzig," pp. 155-57. Mr. Foster adds in a footnote on p. 156: "The following incident is characteristic of the situation. During the celebrations in Danzig on May 1, 1934 [the Day of Labor], a street-fight took place between a storm-trooper and a person who, it was alleged, failed to salute the Nazi flag in a passing parade. On the next day the Polish customs inspection bureau was closed, thus preventing business houses from procuring permits for the shipment of goods to the Republic and it was revealed that the assaulted person was a Polish customs inspector." The incident was reported in the *Danziger Neueste Nachrichten*, May 3 and 4, 1934. [Crusen, *Der Pariser Vertrag*, pp. 494-95.]

⁵³ The term is taken from an article by Dr. Georg Crusen, former Chief Justice of the Free City, "Die Beziehungen der Freien Stadt Danzig zu Polen seit der Übernahme der Regierung durch den Nationalsozialismus," *Zeitschrift für Völkerrecht*, 1935, p. 44 [Crusen, *Der Pariser Vertrag*, pp. 426-29.]

agreement and proceeded to settle in quick order some twenty-five outstanding disputes. Besides a number of minor questions they included the three major problems—the use Poland was to make of the port of Danzig, the treatment of the Polish minority, and trade relations. After extensive negotiations, six economic Agreements were concluded on August 6, 1934, of which two, dealing with import quotas and customs administration, were based upon the Decisions of High Commissioner Rosting. Each was valid for two years and was to be automatically renewed thereafter for annual periods unless denounced by either party on six months' notice.

In the first Agreement the Free City relinquished for the duration of this pact its rights to separate import quotas, under Article 212 of the Warsaw Agreement, and received in turn a share in the Polish import contingents. The amounts involved were to be fixed, by mutual agreement, on a percentage basis; they were to correspond to the needs of the population of Danzig and the requirements of her industry, trades, agriculture, and commerce (Article 2).⁵⁴ Danzig undertook to establish a Chamber of Foreign Commerce to represent her business interests with foreign countries other than Poland and, especially, to participate in the determination of the Danzig share in the import quotas.⁵⁵ Poland consequently abolished her system of economic controls established in the Free City's territory and removed the barriers to the free flow of trade between the two states.⁵⁶

In Agreements 2–4, Danzig agreed to further adjustments in her legislation on the traffic in foods and other products of agriculture, truck gardening, and fisheries as well as on animal and plant inspections. The purpose of the changes was to bring about an approximation of the Danzig provisions to the corresponding Polish laws, with the intent of restoring normal conditions of trade.⁵⁷

In addition, Danzig allowed Warsaw increased influence over the customs administration by agreeing to added rights of control on the part of the Polish customs inspectors (Articles 9–11). Poland received the right to be consulted in the selection of the thirteen higher officials of the Danzig customs administration; she was also entitled to demand the dismissal of any of their number in case of serious or continued disloyalty to the interests of the customs service (Article 14).⁵⁸

⁵⁴ *Zusammenstellung, 1933–1934*, pp. 18–77.

⁵⁵ *Ibid.*, pp. 170–79.

⁵⁶ Crusen, "Die Beziehungen . . .," cited above, pp. 60–61.

⁵⁷ *Zusammenstellung, 1933–1934*, pp. 78–169; Crusen, "Die Beziehungen . . . p. 62.

⁵⁸ *Zusammenstellung, 1933–1934*, pp. 180–219.

By these significant concessions the National Socialist government did not yield to all the Polish demands but did take into account a number of the complaints previously addressed to the High Commissioner and enabled Poland to exercise an important degree of additional authority in the customs administration. Danzig took the step because of the urgent need to improve economic conditions in the Free City, which had suffered heavily as the result of the existing economic warfare.⁵⁹ The need to yield to Poland in important respects was also recognized by large elements of the non-Nazi population. The *Danziger Volksstimme*, chief opposition newspaper at a time when vocal disagreement with Nazism was still possible, wrote:

Danzig had to make sacrifices; considering all the circumstances, this cannot be denied. Agreement on the customs question, Danzig's concession to the Polish Government, will be criticized by many sections of the population; but it must be admitted that today no other way stands open for Danzig if we wish to avoid the ruin of the Polish-Danzig economic relationship.⁶⁰

THE ECONOMIC CRISIS UNDER THE NAZI ADMINISTRATION

These economic Agreements with Poland were not sufficient to relieve to any considerable extent the economic situation of the Free City. In fact, from the end of 1934 it grew increasingly worse. Dr. Herman Rauschning, the first Nazi President of the Senate, was forced out of office by the more radical element in his party, and his expressed concern over the grave economic crisis was not heeded. The Senate, instead, placed its faith in assistance from Germany, which failed to materialize to the expected extent. Foreign exchange began to be hoarded, while the government expenditures to provide work for the unemployed were a heavy drain on the Free City's finances. On May 2, 1935, the gulden was suddenly devaluated by 42.37 per cent—an act followed by a brief but bitter currency and tariff war between Danzig and Poland. To fight the flight from the gulden, the Senate issued a Draconian ban on the exportation of foreign currencies which resulted in the incidental freezing of some eight to seventy million zloty.⁶¹ Poland considered this a violation of Article 194 of the Warsaw Agreement, which safeguarded con-

⁵⁹ Crusen, "Die Beziehungen der Freien Stadt Danzig . . .," pp. 57, 59, 62.

⁶⁰ Issue of August 10, 1934, p. 1, quoted in Foster MS, "The Free City of Danzig," p. 160.

⁶¹ Mildred S. Wertheimer, "The Nazification of Danzig," *Foreign Policy Reports*, June 1, 1936, pp. 69-71.

tracts concluded in terms of Polish currency. Referring to Article 36 of the Treaty of Paris, Poland demanded the unification of the two monetary systems by the introduction of the zloty into the Free City and tried to break down Danzig resistance to such a step by endeavoring, in July 1935, to prevent the Danzig customs administration from clearing goods other than those intended for local consumption. As this would have paralyzed completely all transit trade the Senate forbade the Danzig customs officials to execute the order. It also ordered the duty-free importation of a number of articles which were considered important for the local population.⁶² Shortly afterward, however, Danzig abandoned the decree allowing certain German goods to enter its territory duty-free and Poland canceled the levies on transit goods.⁶³ The negotiations resulting in these revocations probably had been reopened under pressure from Berlin.⁶⁴

DANZIG'S SHARE IN THE CUSTOMS RECEIPTS

The share of the Free City of Danzig in the customs receipts was computed by means of a complicated formula, taking into account the gross customs receipts in the territories of both Poland and Danzig, the size of their respective populations at the last census, and the average consumption of imported goods by the inhabitants of each state. For the first three-year period, 1922 to 1925, the norm of consumption of goods on which a customs duty had been paid by an inhabitant of the Free City was counted as six times larger than the corresponding consumption by an inhabitant of Poland. At the end of each three-year period, both Danzig and Poland had the right to move for a new settlement of the norm of consumption, according to changed economic conditions.⁶⁵

During the first triennium, 1922 to 1925, the population of Danzig was 1.3 per cent that of Poland; multiplied by six, in accordance with the above formula, the amount of Danzig's share in the

⁶² Georg Crusen, "Der neue Kurs in der Freien Stadt Danzig," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 1936, p. 74. Article 36 provided: "Poland and the Free City undertake to enter into negotiations, when circumstances permit, on the request of either of the two parties, with a view to unifying their monetary systems. An interval of one year shall be allowed before such unification, when decided on, comes into effect."

⁶³ *Zusammenstellung*, 1935-1936, pp. 32-39, 50-53.

⁶⁴ Wertheimer, "The Nazification of Danzig," *Foreign Policy Reports*, p. 71.

⁶⁵ Article 206, Agreement of Warsaw (*Abkommen vom 21 Oktober 1921 . . .*, pp. 71-72). The methods of computing revenue share in the customs unions of various European countries since 1853 are described in Funk, *Die Danzig-Polnische Zollunion*, pp. 1-34. [Crusen, *Der Pariser Vertrag*, pp. 219, 225-26.]

total customs receipts was fixed at around 8 per cent of the total.⁶⁶ In 1926, Danzig and Poland reached an agreement under which for a period of two years Danzig was guaranteed an annual minimum share in the customs revenue of 14 million gulden and was allowed a maximum of 20 million gulden, with Poland making up or keeping the difference between these amounts and the actual annual income.⁶⁷ Danzig's annual share after expiration of this Agreement in September 1928, was again computed on the basis of the old formula.

The following table lists the sums received by the Free City between 1924 and 1933:

Year	Gulden	Zloty ⁶⁸	Approximate Total in U.S. Dollars ⁶⁹
1924	21,307,416	\$4,132,000
1925	21,401,644	4,112,000
1926	10,634,942	2,056,000
1927	10,144,008	10,442,983	1,959,000
1928	938,652	38,673,933	4,474,000
1929	2,484,098	30,567,250	3,851,000
1930	2,201,015	19,569,290	2,626,000
1931	1,474,750	12,348,395	1,611,000
1932	837,045	7,570,761	1,055,000
1933	733,457	6,422,332	1,005,000

THE COST OF THE CUSTOMS ADMINISTRATION

The customs administration was an expensive affair for Danzig, as her territory was small but her customs frontier proportionately very long. The customs union included an area of 388,241 square kilometers, of which only 1,968 square kilometers fell within the area of the Free City. Her boundaries extended over 290 kilometers, those of Poland over about 4,000 kilometers. The proportion of the length of the customs border to the size of the territory in-

⁶⁶ *Official Journal*, August 1923, p. 1003. The exact percentages during that period ranged from 7.31 per cent before December 1923 to 7.81 per cent after September 1924. This percentage was judged to be very low by Dr. Funk, as Danzig produced from two to three times as much customs revenue as she received; see his *Die Danzig-Polnische Zollunion*, pp. 113-16, 119. For his proposed "ideal method," see *ibid.*, pp. 120-34.

⁶⁷ Agreement of September 20, 1926 (*Zusammenstellung*, 1924-1927, pp. 59-61). The Danzig gulden, first issued in 1924, had a fixed value of 1/25 of a pound sterling, or £0.194 (pre-March 1933 value), until devalued in 1935.

⁶⁸ According to Foster MS, "The Free City of Danzig," p. 140; tables based on data in *Staatshandbuch der Freien Stadt Danzig* (Danzig, 1926), p. 289; *Danziger Statistisches Taschenbuch*, 1933, p. 111; and *ibid.*, 1934, p. 119.

⁶⁹ Computed by present writer.

cluded was 1.100 for Poland, but only 1:14 in the case of the Free City. In proportion to the size of its territory Danzig, therefore, had to guard a customs border seven times longer than Poland's. Almost one-half (134 kilometers) of the Danzig customs frontier was along the seashore or the inland bay of the so-called Frisches Haff in East Prussia, which made its control more expensive.⁷⁰

The number of customs personnel in the Free City was correspondingly large. Twenty-six customs offices were staffed by more than 1,500 officials and employees, while all of Poland had 236 customs offices employing some 7,500 persons.⁷¹

ECONOMIC EFFECTS

Agriculture in the Free City was handicapped by the existence of the customs union, since the cheaper agricultural products arriving duty-free from Poland depressed local prices, lowering, for instance, the price of grain below that prevalent in Germany. What farming existed in the territory was very intensive, characterized by the wide use of farm machinery (a use considerably more extensive even than that in the former German districts of Poland), thorough cultivation, large and regular application of artificial fertilizers, use of the best seeds and scientific methods, and higher wages than those paid in Poland. The cost of agricultural production was high, not in small part because most machinery and repair parts had to be imported from Germany—especially in the earlier years—and was subject to the high Polish tariff.⁷²

Danzig business complained about rather frequent and sudden changes in the rates of customs duties by Warsaw administrative decree, on occasion amounting to 50 and 100 per cent.⁷³ While Polish business firms undoubtedly found sudden tariff changes similarly upsetting to their plans and profits, they had at least opportunities of exercising mitigating pressure on their government not available to the interests of the Free City. In addition, it would have been natural as well as legal, in general, for the Warsaw government to extend the benefit of special consideration to the economic groups domiciled in Poland.

⁷⁰ Funk, *Die Danzig-Polnische Zollunion*, pp. 46-47.

⁷¹ *Ibid.*, pp. 108-9. The Danzig customs offices, however, also administered the indirect taxes.

⁷² *Ibid.*, pp. 57-61; see the very interesting statistics on differences in crop yields for 1921 in Poland and the Free City, also on the use of agricultural machinery, on pp. 60-61.

⁷³ *Ibid.*, pp. 75-76.

TWO MAJOR OBSTACLES

The working of the customs union was greatly handicapped by two major political factors. One was the old tendency of Danzig to seek to contract her obligations toward Poland, and the other was the equally well-established policy of Poland to endeavor to expand her rights at the expense of the Free City. As a consequence, clashes were frequent and severe. In addition, customs relations were deeply affected by the fact that the Free City and Poland were dissimilar states with divergent economic needs and aims, except for the common interest in the port at the mouth of the Vistula River. One was small, even tiny, in extent of territory and size of population, primarily urban and industrial-commercial in economic character, technically advanced and accustomed to a high standard of living.⁷⁴ The other was enormous in expanse of territory and very large in number of people; but preponderantly agricultural in character,⁷⁵ with many illiterates in her population,⁷⁶ much desperate poverty,⁷⁷ and generally lagging behind in modern methods of farming⁷⁸ and marketing.⁷⁹ At the same time, it was ambitious to take its place as a great power and to create the necessary industrial potential. In addition, wide areas of the Polish Republic had suffered severely from the ravages of war during 1914 to 1918 and again during the fol-

⁷⁴ Funk, *Die Danzig-Polnische Zollunion*, pp. 49-55. Danzig included among her residents a proportionately larger number of public servants and members of the free professions than did Poland, also, proportionately, two and a half times as many persons not depending on a profession or trade for their income, including many pensioned government officials and beneficiaries of the extensive German social security system.

⁷⁵ More than 60 per cent of her population was engaged in agriculture. (Unsigned), *Poland To-Day* (Warsaw, 1939), pp. 7, 11. Raymond Leslie Buell, *Poland, Key to Europe* (New York, 1939, 3d ed.), p. 19, states that in 1921 the proportion was about 70 per cent.

⁷⁶ "Although official statistics indicate that about 23 per cent of the entire population is illiterate, some observers believe that more than half the peasant population is unable to read or write" (Buell, *Poland, Key to Europe*, p. 22).

⁷⁷ "The low level of peasant existence is indicated by the diet, the chief articles of which are rye and potatoes The poverty of these people is proverbial. It is said that during the depression the peasant would split a match four or five times, and would boil potatoes over and over again in the same water to save the salt. A peasant village at night is usually without any form of light except at the Jewish shop or the police office, because the people are so poor." (Buell, *op. cit.*, pp. 20-21, see also pp. 191, 201.)

⁷⁸ Buell, *op. cit.*, pp. 191-92, quotes the Social Policy Council of the Catholic Primate of Poland as follows: "The bad situation of the Polish village in economic and social matters is expressed in the following elements: (a) the extremely low level of agricultural culture and technical equipment"

⁷⁹ *Ibid.*, 201-2.

lowing two years of fighting against Russia.⁸⁰ From time to time the crippling effects of an upset world economy added to the difficulties of a nation engaged in an extended trade war with Germany and difficulties with Russia that blocked the development of her two most logical markets, and to suffering from an uncontrolled inflation and the ensuing severe deflationary efforts.⁸¹

Poland early began to eliminate unnecessary imports, raising the number of items affected as well as the height of the tariff wall. In August 1932 her customs duties were increased 300 and 400 per cent. The following year all imports were placed under license, resulting in a virtual embargo on imports of a large number of items, including many manufactured goods. In 1936, exchange control was introduced and all imports and exports were put under severe control.⁸²

All of the measures and general conditions severely affected the Free City of Danzig as well as Poland. Matters were not made easier by the fact that the two states used two types of currency, that each had suffered from inflation but at different times and to varying degrees.

Needless to say, it is extremely difficult if not impossible to appraise the effectiveness and desirability of the customs union in the face of such upset economic conditions, even if Danzigers and Poles had not engaged in disputes on political and nationalistic grounds as well as on economic ones.

⁸⁰ "Except for Belgium, Poland suffered greater devastation than any other European nation—a devastation increased by the fact that Poland fought Russia for two years after the World War had come to an end" (*ibid.*, p. 81); see also p. 82, for statistical data concerning the amount of destruction

⁸¹ *Ibid.*, pp. 126–32.

⁸² *Ibid.*, pp. 136–37.

POLAND'S MILITARY AND NAVAL RIGHTS · THE MUNITIONS DEPOT

In the summer of 1932 a Polish destroyer entered the port of Danzig, against the wishes of the Free City government, to pay a courtesy call on a British destroyer flotilla lying in the harbor. A few days later a German cruiser and two destroyers arrived in the port, and received an enthusiastic reception. This time Warsaw protested, claiming that the time was not propitious for a German naval visit.¹ After the waves of public excitement had subsided, the incident was closed by the conclusion of an agreement in which the Free City granted certain privileges to Polish warships beyond those ordinarily allowed foreign war vessels by international usage.²

IMPORTANCE OF THE NAVAL INCIDENT

This understanding settled a twelve-year-old dispute that, together with the problems of the Polish postal service and the Polish munitions depot on the Westerplatte, illustrates the fundamental difference between the views of Danzig and Poland over the latter's rights in the Free City. As Morrow, a keen British student, observes:

The transition from post-boxes to warships may seem violent and arbitrary. Both are, however, capable of use as instruments of policy. The post-boxes painted with the Polish white eagle were and are a visible reminder to the Danzigers that Poland insists upon what she considers to be the fulfilment of her legal rights in their city. The entry of a Polish destroyer into the harbour of Danzig on the occasion of a British naval visit to Danzig in June 1932 aroused ineffectual protests on the part of the Danzig Government, and served forcibly to recall to Danzig memories those pretensions advanced by Poland at the Paris Peace Conference and afterwards to complete sovereignty over Danzig as her natural and historic seaport. It can never be too frequently emphasized that it is necessary, in a study of Danzig-Polish relations between 1920 and 1935, to return time and again to consider Poland's intentions regarding Danzig as expressed at the Peace Conference in Paris and at the subsequent negotiations for the conclusion of the Convention of Paris. These ne-

¹ Morrow, *Peace Settlement*, p. 105.

² Agreement of August 13, 1932; see below, pp. 225-26. [Crusen, *Der Pariser Vertrag*, pp. 19-20, 26-30, 238, 242, 247, 248-249, 414-22.]

gotiations also served to reveal Danzig's conception of the status accorded to her as a Free City. The final text of the Convention of Paris conforms in the main to the Danzig and not to the Polish standpoint. Hence the entry of this Polish destroyer into the harbour of Danzig in June 1932, against the wishes of the Danzig Government, can only be understood aright if the previous disputes between Poland and the Free City over Poland's use of its harbour for naval purposes, as well as Poland's original intentions in regard to Danzig's serving it as a naval base, are known.³

It will be recalled that in the Treaty of Versailles the Allied and Associated Powers had undertaken to negotiate a treaty between Poland and Danzig, later known as the Treaty or Convention of Paris. As the World Court stated, this treaty

was, as the terms of Article 104 of the Treaty of Versailles clearly show, to ensure to Poland the enjoyment of a series of rights for the purpose of safeguarding her position at Danzig. The negotiation of the treaty referred to in Article 104 was entrusted to the Conference of Ambassadors in Paris. The work was initiated by the adoption of a resolution by that body on May 7, 1920, of which the first two paragraphs provided that this treaty should be concluded as soon as possible, but that *Poland could not be authorized to establish a military or naval base at Danzig*.⁴

POLAND'S EARLY DEMANDS FOR A MILITARY AND NAVAL BASE

Poland, however, vigorously pressed her intention of using Danzig as a military and naval base and endeavored to write such provisions into the Treaty of Paris, in spite of the resolution of the Conference of Ambassadors cited above. While engaged in negotiations leading to the conclusion of the Convention the Conference received from the Polish delegation two successive drafts containing a special section devoted to "military and naval affairs."⁵ The first of these drafts included the following drastic provisions:

Article 30. Poland will have the right to take in the territory of the Free City of Danzig all measures of a military and naval character necessary for the defense of her territory and her access to the sea as well as for the defense of the territory of the Free City.

For this purpose Poland will have the right to maintain military and naval forces on said territory, to occupy fortifications and to exercise military control.

³ Morrow, *Peace Settlement*, p. 90.

⁴ Advisory Opinion of the World Court, "*Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels*," Permanent Court of International Justice, Series A/B, No. 43, p. 132. Italics by the present writer. [Crusen, pp 417-22.]

⁵ *Ibid.*, p. 133.

Article 31. The Free City of Danzig does not have the right to organize or maintain military or naval forces on her territory.

No construction of a military character may be put up by the Free City on her territory. The manufacture of arms and ammunitions, as well as of military equipment, airplanes, dirigibles, and other military contrivances in the territory of the Free City of Danzig is forbidden, except for the right of Poland in accordance with Article 30.

Article 32. The Free City will have the right to maintain a municipal police force composed exclusively of Danzig nationals, the number of which—including officers, noncommissioned officers, and employees—may not exceed one-half of one per cent of the total population of Danzig.

This provision does not in any way affect the right of Poland to maintain the police personnel needed to guarantee the orderly functioning of the official services which are assigned to Poland by the Treaty of Versailles and the provisions of the present convention.

Article 33. Poland will have the right to use the port of Danzig and its installations for the anchorage, repair, and victualling of her ships and war vessels.

Article 34. Poland will exercise the rights of control and of police over the territorial waters of the coast of the Free City of Danzig as well as over those parts of the Vistula which are in the territory of the Free City.

Article 35. Infractions of the laws, regulations, and decrees issued by the Polish authorities in the exercise of the rights of control and of police appertaining to Poland will be judged, should the occasion arise, by a Polish maritime police tribunal in Danzig. The organization of this tribunal and of its procedure will be determined by Polish law.

Article 36. The Polish Government will provide for the pilot services in the port of Danzig, in the territorial waters of the Baltic Sea, as well as on the Vistula River within the boundaries of the Free City of Danzig. Poland will likewise provide the hydrographic and meteorological services in the port of Danzig.

Article 37. Poland will have the exclusive right of maintaining airfields in the territory of the Free City of Danzig and of controlling the air-lines over the territory of the Free City and over her territorial waters.

Article 38. The radio telegraph and radio telephone stations in the territory of the Free City of Danzig can be maintained and utilized only by the Polish State.⁶

In her second draft Poland did not modify her claims but merely reworded them:

Article 33. As the defense of Poland's free access to the sea is closely allied with the defense of the territory of the Free City, Poland will have the right and the duty to exercise military control in the territory of the

⁶ Translation by the writer. The French text is found in *Amtliche Urkunden*, pp. 28-30.

Free City of Danzig and to take there all necessary measures of a military, naval, and aviation character.⁷

Her demands for the right to use the port and its installations for the anchoring, repairing, and victualing of her warships thus remained unchanged⁸

THE POINT OF VIEW OF DANZIG

On the other hand, the draft for the Treaty of Paris submitted by Danzig strongly stressed the idea that the Free City would be a sovereign state⁹ and, for that reason,¹⁰ made no specific mention of military matters. It took cognizance of Poland's claims only inferentially when it provided in its Article 8 that armed persons and military persons in uniform could enter the territory of the other party to the treaty only by special permission.¹¹

THE ACTION OF THE CONFERENCE OF AMBASSADORS

The resolution of the Conference of Ambassadors mentioned above, to the effect, in part, that "Poland could not be authorized to establish a military or naval base at Danzig," had been adopted on May 7, 1920. Poland, however, did not heed this strong warning of the Allied Powers. Her second draft, issued on September 20, 1920, over four months later, repeated her demand for the use of Danzig as a naval, military, and air base in terms at least as strong as those voiced in the first draft. The final text, however, of the Convention of Paris as prepared by the Conference of Ambassadors and imposed upon Danzig and Poland made no mention whatever of any Polish naval or military rights in the Free City.¹² Instead, the Conference, in a letter signed by Jules Cambon and addressed to the Polish Delegation, stated "The Powers considered that, as then worded, the Convention reconciled the interests of the two Parties and assured to Poland, as well as to the Free City, the enjoyment of their rights under the Treaty of Versailles"¹³

⁷ Translation by the writer; *Ämtliche Urkunden*, p. 69

⁸ Article 36 of the second draft is identical with Article 33 of the first draft, and Articles 34 to 41 of the second draft are practically the same as Articles 30 to 38 of the first project; *Ämtliche Urkunden*, pp. 28-31, 69-73

⁹ Text in *ibid.*, pp. 39-53; see also above, pp. 91-94.

¹⁰ According to Willi Forg, *Die militärischen Rechte Polens in der Freien Stadt Danzig* (doctoral dissertation, University of Würzburg, 1926), p. 9.

¹¹ *Ämtliche Urkunden*, p. 49.

¹² *Ibid.*, pp. 101-15, 129-47; see also above, pp. 92-93

¹³ Quoted from Advisory Opinion, *Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels*, p. 133. The same statement is contained in the corresponding letter addressed to the Danzig Delegation (*Ämtliche Urkunden*, p. 127).

The communication also referred to the insistence of the Polish delegation on provisions in this Convention for the military defense of Danzig and declared that "the Conference did not consider that any provision on the question could be inserted in the Convention under Article 104 of the Treaty of Versailles, but [that] it had decided to draw the attention of the Council of the League of Nations to the point."¹⁴

In view of the fact that in general the actions of the Allied Powers were friendly to the Polish claims, it is significant that Polish insistence on these points was unable to change the Allied prohibition. For, if the Polish draft provisions had been accepted by the Conference of Ambassadors and included in the Convention of Paris, "Danzig would have become what Poland intended it to be—her naval base on the Baltic"¹⁵ and, we might add, her military and air base as well.

THE ATTITUDE OF THE LEAGUE COUNCIL

Considering that, after careful examination and deliberation, the Constitution of the Free City of Danzig was expressly approved and guaranteed by the Council of the League of Nations, its Article 5 is of special importance as indicating the attitude of the League Council on the question of Polish naval and military rights in the Free City. This Article provided that the Free City could not, without the previous consent of the League in each case, (1) serve as a military or naval base, (2) erect fortifications, or (3) authorize the manufacture of munitions or war materials on its territory.¹⁶

This constitutional provision was diametrically opposed to the Warsaw demands, but even its express international sanction did not put an end to Polish endeavors. When the League Council discussed the problem of the defense of Danzig in 1920 and 1921, Warsaw asked the Council to avert all danger for Poland by conferring upon her a permanent mandate for the defense of the Free City. The Council, however, did not go beyond adopting a resolution to the effect that the Polish government was "especially fitted . . . to

¹⁴ Advisory Opinion, *Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels*, p. 133. In a letter to the Secretary-General of the League the Conference expressed its point of view in rather general terms: "Owing to the close relations thus established between the Free City and Poland, and also in view of the clearly expressed intention of the Powers who signed the Treaty of Versailles to give Poland free access to the sea, the Polish Government would thus seem to be entitled to receive from the League of Nations the mandate of eventually ensuring the defence of the Free City"—quoted, *ibid.*, p. 134.

¹⁵ Morrow, *Peace Settlement*, p. 90.

¹⁶ See above, p. 68

ensure the defense of Danzig by land," adding that it did "not consider it necessary to decide at the present moment under what conditions the defense of Danzig by sea should be secured."¹⁷ As Morrow points out,

this resolution clearly implies that the Council considered the League of Nations to be solely responsible for the naval defense of Danzig and therefore at liberty to decide the use that should be made of its harbour as a naval base. It also amounted to a repudiation of Poland's claim that the Free City was created "exclusively in the interests of Poland, or exclusively with the object of assuring Poland free access to the sea."¹⁸

While the extreme claims of Poland were thus denied by the Conference of Ambassadors and the Council of the League of Nations, the question of Polish military and naval rights in the Free City was by no means settled. For over a decade it came up again and again in connection with the controversies over the claims of Poland to the right to maintain an armed guard in the port, to safeguard shipments of munitions in transit, to possess a special munitions depot in the harbor, and to have a port d'attaché for her warships.

POLAND'S RIGHT TO IMPORT MUNITIONS

Poland had the definite right to import ammunitions via Danzig as part of her free and secure access to the sea. This was made explicit by Article 28 of the Convention of Paris, which provided that "at all times and in all circumstances Poland shall have the right to import and export via Danzig goods of any kind whatever not prohibited by Polish law." Since no Polish law forbade the import of war supplies and ammunitions, Poland was entitled to use the port of Danzig for this purpose. Although Danzig acknowledged Poland's right in principle,¹⁹ the actual problems connected with the transit of Polish munitions led to one of the most bitter and embittering series of disputes. The controversy began in 1920, before

¹⁷ *Official Journal*, September 1921, pp. 671-72; see also Advisory Opinion, *Access to, or Anchorage, . . . of Polish War Vessels*, pp. 132-36, for a brief résumé of the attitude of the Conference of Ambassadors and the League Council on the defense of Danzig.

¹⁸ Morrow, *Peace Settlement*, p. 91. See also Permanent Court of International Justice, Series C, No. 55, p. 143.

¹⁹ Matschke, *Grundlagen des internationalen Statuts*, p. 115; "It is common ground between the interested Governments that this provision [Article 28] covers the import of munitions and other war material"—statement of the Permanent Court of International Justice, in Advisory Opinion, *Access to, or Anchorage, . . . of Polish War Vessels*, p. 145.

the Free City was formally established. It appeared settled in 1928, only to break out again in 1933, when it came close to precipitating a war between Germany and Poland. Before it was settled once more in March of that year, it had occupied the attention of the Council of the League of Nations at no fewer than nineteen separate sessions, more often than any other Danzig-Polish problem.²⁰

THE EARLY ARRANGEMENTS, 1920

Before the formal establishment of the Free City, Poland had concluded several temporary agreements with Sir Reginald Tower as Provisional Administrator and Representative of the Allied Powers then occupying Danzig. They were intended to secure for Poland the immediate use of the port along the general lines laid down in the Treaty of Versailles, as well as to arrange for Danzig quick transportation of food supplies at a time when she was threatened by an extreme shortage of provisions.²¹ Poland, on her part, was in immediate need of munitions from abroad, since she was engaged in war with Soviet Russia and was dependent on imported war materials for her army in the field. In the Agreement with Poland of April 22, 1920, Danzig "guaranteed all necessary facilities for any goods unloaded in the port and destined for Poland, including war materials," and agreed further that, with previous permission from the Danzig authorities, Polish military guards would be allowed to escort the latter.²² In practice the provision for unloading proved to be insufficient that same summer, when striking Danzig longshoremen refused to unload the munitions at a time when Poland was in extreme danger of military defeat by the Soviet Union.²³

THE ARMED GUARD AT NEUFABRWASSER

During the period of Allied Administration a Polish military detachment was stationed at Neufahrwasser, located below Danzig and close to the mouth of the Vistula, to safeguard the transit of Polish munitions from ships to the railway. This was done with the permission of the Allied Administration and the knowledge of the Danzig authorities.²⁴ Shortly after the establishment of the Free City the Senate claimed that the retention of this detachment was illegal on three grounds: it violated the sovereign rights of the Free City; it was contrary to the resolution of

²⁰ As pointed out by Foster MS, "The Free City of Danzig," p. 214.

²¹ *Zusammenstellung, 1920-1923*, Sections IV-V.

²² *Ibid.*, pp. 130-31.

²³ See above, pp. 116-17.

²⁴ Decision of February 4, 1921 (*Decisions, 1921*, pp. 4-6).

the League Council of November 17, 1920, forbidding Danzig to be used as a military or naval base; and it was contrary to the Convention of Paris. The Senate also claimed that it was unnecessary, since the government was ready to provide adequate protection for all goods passing through the port.²⁵ The High Commissioner, however, accepted as an "undoubted fact" the Polish claim that several instances of theft had occurred, involving the loss of large sums of money by the Polish government, but refused consideration of the additional Polish claim that explosives had been placed maliciously in the freight cars containing Polish war stores, on the ground that no evidence had been brought forward in support of this statement.²⁶

In his Decision of February 4, 1921—the first decision to be handed down by a High Commissioner—Lieutenant General Haking stated the two main principles on which he was acting:

First, the sovereign rights of Danzig must not be violated, and secondly, Poland must be given the free and unimpeded use of the harbour and the railways serving the harbour.²⁷

He found that both these principles were endangered by the circumstances which had arisen in this case, that the presence of a Polish military detachment in Danzig threatened the sovereign rights of the Free City, and that, on the other hand,

the Polish rights in the harbour have not been sufficiently safeguarded by the authorities of Danzig in the past, and that they must be so safeguarded now and in the future. It does not lie with Poland to safeguard these rights by any action in Danzig itself, it lies with the League of Nations to ensure that Poland is given her rights in Danzig.

He continued:

It is therefore the duty of the authorities of Danzig to take the necessary step to ensure that all Polish goods, of every nature permitted by Polish law, should pass through the territory of Danzig without loss or damage, except that due to the ordinary risk of transporting goods.

In conclusion the High Commissioner suggested that until the Harbor Board would be in full working order,

the Danzig authorities to show their good will, should permit this detachment to remain as caretakers of the Polish goods passing through Danzig, and that the Polish authorities, to show good will on their side, should remove all possibility of the detachment being considered to be of a military nature, by withdrawing their arms, accoutrements, and uniform.²⁸

²⁵ *Ibid.*, p. 4.

²⁶ *Ibid.*, pp 6-7.

²⁷ *Ibid.*, p. 8.

²⁸ *Ibid.*, pp. 8-9.

Poland protested against this suggestion and appealed to Geneva, claiming that her guards could not perform their duties unless they were armed and wearing uniforms. The Free City, in turn, claimed exclusive police powers in her territory as her sovereign right and again referred to the Council Resolution of November 17, 1921, forbidding the use of the Free City as a military base. A committee appointed by the Council on June 22, 1921, brought about an Agreement between Danzig and Poland on the same day. It provided that Poland could maintain a guard on the premises of the munitions depot to carry out measures for the maintenance of order and the necessary safety precautions. This staff was to be armed and uniformed, but it was not allowed to carry firearms outside the premises. The High Commissioner was given the right to be kept informed of the size of the guard and to fix its strength in agreement with the Polish government. It was further agreed that the site should not possess ex-territorial rights.²⁹

THE QUESTION OF A MUNITIONS DEPOT, 1921

Poland also requested the Council to guarantee her a permanent site for a munitions depot, invoking Article 28 of the Convention of Paris for the purpose. It contained the provision that "at all times and in all circumstances Poland shall have the right to import and export via Danzig goods of any kind whatever not prohibited by Polish law." The Council appointed a committee to examine the question, including in its membership High Commissioner Haking, former Acting High Commissioner Professor Attolico, M. Askenazy, Delegate of the Polish Republic to the League of Nations, M. Sahn, President of the Senate of Danzig, Admiral Lacaze of the French Delegation, and Mr. Colban, Director of the Administrative Commissions Section of the Secretariat, as well as the technical advisers of the two parties concerned. After due consideration the Committee adopted a declaration on June 22, 1921, in which Poland and Danzig agreed on the following principles:

That a special site on the banks of the Vistula shall be placed at the disposal of the Polish Government for the unloading, temporary storage and despatch to Poland of war material in transit, and

That this site shall be at a sufficient distance and as isolated as possible from all dwelling-houses; the duty of defining the measures of safety necessary for the security of the Free City shall be left to the Harbour Board.

²⁹ *Zusammenstellung, 1920-1923*, pp. 202-7; *Official Journal*, September 1921, pp. 673-74 [Crusen, *Der Pariser Vertrag*, pp. 400-401.]

The declaration also stated that the two parties were unable to agree on the suggestion made by the French Delegate to the effect that the Island of Holm would be the most suitable site for the erection of these magazines. This question was therefore referred to the Harbor Board.³⁰

The Harbor Board came to the conclusion that there was no place in the port of Danzig which was distant and isolated enough from all dwelling houses in the city to avoid all dangers from explosion. For that reason it selected the southwest corner of the basin in the Island of Holm as a place "which most nearly approached those conditions," on the distinct understanding, however, that it would not be responsible for anything whatever that might happen owing to the presence of the war materials in question. The Polish government rejected the site as being inconvenient for the purpose and demanded a place on the eastern side of the same basin.³¹ The Free City objected to the establishment of a munitions depot in the harbor, including the Island of Holm, primarily because of the danger, from the storage of explosives, to the city, her inhabitants, and her trade.³² She also argued that the presence of such a depot for war materials would cause grave danger to the Free City in the event of a war between Poland and another country, possibly resulting in hostile acts by foreign ships or airplanes.³³

High Commissioner Haking examined carefully the various arguments advanced by both parties. Pointing out that neither Danzig, Poland, nor the Council of the League "ever questioned the right of Poland to possess such a depot, [and that] the point in dispute was entirely a matter of the selection of a site which would fulfill the conditions of the above-mentioned agreement,"³⁴ he concluded that from the arguments two points stood out clearly: "on the one hand Poland has the right to transport her war material, including explosives, through the Port of Danzig, and on the other hand the exercise of this right causes a danger to the lives of the inhabitants and to the prosperity of the Free City."³⁵

HAKING'S DECISION

General Haking's Decision of April 7, 1922, assigned a portion of the Island of Holm as the *temporary* site of the Polish depot for war material in transit, the site to remain the property of the Harbor

³⁰ *Official Journal*, September 1921, pp. 672-73; *Zusammenstellung, 1920-1923*, pp. 196-201. For a brief résumé of these developments, see also Decision of April 7, 1922 (*Decisions*, 1922, p. 4). [Crusen, p. 401.]

³¹ *Decisions*, 1922, pp. 4-6.

³² *Ibid*, pp. 7-8.

³³ *Ibid*, p. 8 (VIII).

³⁴ *Ibid*, pp. 4-5.

³⁵ *Ibid*, p. 10 (13).

Board and to be leased to Poland free of rent, taxes, or any other charge. The Polish government was to expedite in every possible way the rapid transit through the territory of the Free City of any of this material which was of an explosive nature, and to notify the High Commissioner, the President of the Senate, and the President of the Harbor Board whenever more than one hundred tons of explosives had been stored in this depot for twenty-four hours. In addition, the Polish and Danzig governments were to enter negotiations to build a channel and basin on the eastern side of the Dead Vistula near its mouth (that is, on the Westerplatte peninsula), each government to pay one-half of the cost. When the new site was completed, ownership of it was to be transferred to the Harbor Board; but the place was to be leased permanently to Poland, without payment of rent, taxes, or any other charge, while the locality temporarily allotted to Poland on the Island of Holm was to revert to the Harbor Board. Harbor regulations for munitions ships were to be drawn up by a Committee including representatives of the Harbor Board (one Polish and one Danzig Delegate) and the Polish and Danzig governments. The Decision further provided that Poland alone was to be responsible for any "reasonable compensation for loss of life and property" in the event of a munitions explosion.³⁶

The Decision satisfied neither government and was appealed by both. The Free City protested again that the proposed site was too close to the center of all commercial activities and that its location would endanger the safety of the inhabitants and threaten the economic welfare of the city, as foreign capital would not accept the risk of investing money in Danzig. Poland, on the other hand, held that the site was not large enough for her needs and that the conditions imposed by the Decision were too restrictive. On September 1, 1922, the League Council took action, upholding the Decision of its High Commissioner.³⁷

During the following year, Poland did not make much use of the Holm depot, apparently preferring to entrust the unloading and transshipment of her munitions to the Harbor Board.³⁸ Since she and Danzig were still unable to agree on the building and location of the channel and basin referred to in the Decision, the Council decided on December 14, 1923, to appoint four experts who were to study

³⁶ *Decisions, 1922*, pp. 12-14.

³⁷ *Official Journal*, November 1922, pp. 1167-72.

³⁸ According to Foster MS, "The Free City of Danzig," p. 224. President Sahn claimed at the meeting of the League Council of January 1924 that for the past two years Poland had almost never used this site (*Official Journal*, February 1924, pp. 342-50, 393-95).

the situation *in loco* and to designate a site which would correspond to the principles agreed upon by Danzig and Poland.³⁹

THE CHOICE OF THE WESTERPLATTE

In January 1924 the Committee of Experts visited Danzig, inspected the port, and heard all parties concerned. Their report to the Council meeting on March 14 declared in favor of a site on the Westerplatte—a peninsula close to the mouth of the Dead Vistula—as meeting most of the desired requirements. The place was easily accessible by land and by sea, and was three miles distant from the city of Danzig. Its topography, size, and relative isolation were more favorable to Poland than the smaller Holm site with its more limited waterfront. While a basin, wharves, and railway tracks would have to be constructed, the Committee believed that the cost would be relatively small and that the task could be accomplished easily in a year's time. It was recommended that the Westerplatte should serve as a Polish munitions depot only, and should not be available for any other purposes.⁴⁰

In the discussion before the Council Poland objected to the expense and to the length of time necessary to complete the Westerplatte project. The Free City also protested against this solution because the site was just a hundred meters removed from the populous suburb of Neufahrwasser, which would remain in constant danger. In addition, Danzig claimed that the circumstances under which Poland had claimed a munitions depot in the Free City had changed; Danzig was no longer the only port which Poland could use to import munitions and war materials. The harbor of Gdynia was now in existence and was very well suited for this purpose. Danzig therefore proposed that the Council decide that no suitable place for a Polish munitions depot existed in the territory of the Free City.⁴¹

The Council, however, accepted the recommendation of its Committee of Experts and decided to supplement the Decision of the High Commissioner of April 7, 1922, with the following provisions: the ownership of the Westerplatte peninsula should be transferred

³⁹ *Ibid.*, pp. 342-43, 350, 393-95.

⁴⁰ *Official Journal*, April 1924, pp. 529-34, 536-37, 690-95. The members of the committee were Captain Borg, Director of the port of Copenhagen (Chairman); M. Hornell, a Swedish engineer, the British rear admiral, Aubrey-Smith, and the French colonel, Remond. For details concerning size, ownership of real estate on the Westerplatte, and its use as a resort, see Forg, *Die militärischen Rechte Polens* . . . , pp. 37-42, quoting Danzig newspapers. [Crusen, pp. 401-2]

⁴¹ *Official Journal*, April 1924, pp. 529-34; see also *ibid.*, May 1924, p. 812.

from the Free City to the Harbor Board; the Board should grant the exclusive use of a specified section of the area to the Polish government, which was to be permitted to employ it solely as a depot for the transshipment of munitions, the Board should commence the construction of the necessary basin, piers, and trackage, the cost of which would be divided equally between Danzig and Poland; the Harbor Regulations adopted in connection with the Holm depot should continue to apply; and, finally, in the event of an explosion, Poland should be liable for reasonable compensation for injury to persons and property.⁴²

Certain administrative difficulties soon arose which induced the Harbor Board to ask for a revision of boundary lines to include under its jurisdiction certain parts of the Westerplatte area intended for the munitions depot. Poland protested against the Board's request, claiming the site for her exclusive use. She asserted that in view of the danger involved she could not admit any persons except the personnel and guard of the depot itself. The Board was supported in its stand by the Free City and, finally, by the League Council, which ordered a revision of the boundaries and the transfer of the site to the Polish government on November 1, 1925.⁴³

THE STATUS OF THE WESTERPLATTE

On October 31, 1925, Poland took possession of the Westerplatte. Its utilization immediately presented new problems which, by 1927, confronted the High Commissioner in the form of five principal issues:

1. Right of admittance of Danzig authorities to the Westerplatte area in the discharge of their official duties.
2. Control and supervision of the observance of the safety regulations in this area.
3. Manner in which the customs clearance is to be regulated.
4. Regulations applicable to consignments of war material and explosives leaving the Westerplatte area.
5. Definition of "War Material" which may be transported via the Westerplatte.⁴⁴

After a provisional settlement of these questions by the High Commissioner,⁴⁵ the League Council heard a lengthy debate in which Herr Stresemann and M. van Hamel, the High Commissioner,

⁴² *Official Journal*, April 1924, pp. 536-37. ⁴³ *Ibid*, October 1925, pp. 1367-70.

⁴⁴ *Ibid.*, October 1927, p. 1424. [Crusen, *Der Pariser Vertrag*, pp. 404-13]

⁴⁵ *Ibid*, pp. 1423-30

thrashed out their opposing viewpoints.⁴⁶ Upon Stresemann's suggestion, the Council appointed a committee of legal experts which in turn submitted a report to the Council on December 8, 1927. The reasoning and conclusions of the report were most acceptable to Herren Stresemann and Sahn. In regard to the status of the Westerplatte it stated succinctly:

Neither of the parties disputes the fact that the site which was to be placed at the disposal of Poland, under the agreement of June 22nd, 1921, for the unloading of war material and explosives was not to be subject to any regime of extra-territoriality. The sovereignty of Danzig over this territory remains accordingly unimpaired. Poland occupies the position of any other foreign Government receiving a concession on the territory of another State for a specific purpose. By obtaining the concession to use the Westerplatte, Poland recognized the sovereignty of Danzig to the extent provided for in the agreement. Danzig, on the other hand, by agreeing to put the site in question at the disposal of Poland for unloading munitions, was debarred from raising any objection to the use of the site for this purpose

The fact that Poland has undertaken to pay compensation for damage due to explosion cannot on juridical grounds lead to the conclusion that the rights of the Free City are in any way impaired.

On the other hand, account must also be taken of the fact that Poland has been granted the Westerplatte site, not merely for a private or economic purpose but for a purpose connected with the essential needs of the existence of the State, and that, in the Treaty which set up the Free City, Danzig's sovereignty was restricted to meet these vital requirements of the Polish State.

The Polish Government must therefore be regarded as possessing powers of a public character over the Westerplatte, subject, of course, to the sovereign rights of the Free City.⁴⁷

The report concluded that the Danzig authorities enjoyed the right of admittance to the Westerplatte for the purpose of insuring observance of the safety regulations, in fact, that it was their duty to enter the area since they bore the responsibility for enforcement. Furthermore, they enjoyed the same right of access to the Westerplatte depot as to private property elsewhere in the territory of the Free City.

In regard to customs clearance the Committee held that "Danzig is authorized to enforce the customs laws throughout her terri-

⁴⁶ *Official Journal*, pp. 1423-38; see also *ibid.*, July 1927, pp. 801-6.

⁴⁷ *Ibid.*, February 1928, pp. 161-67.

tory, and the Westerplatte occupies the same position as the rest of Danzig territory."⁴⁸

The Polish representative, M. Henryk Strasburger, objected to the report, charging chiefly that its provisions conflicted with the Polish customs laws, and asking for submission of the case to the World Court. M. Briand also showed dissatisfaction with the report and indicated his desire for further consideration of the matter. A few days later, on December 12, 1928, the Council directed the governments of Danzig and Poland to enter new negotiations for a solution of these problems with the assistance of the High Commissioner.⁴⁹

THE ATTITUDE OF THE GREAT POWERS

It is worth while here to consider the comment on these developments made by Mr. Andrew B. Foster, an American student of Danzig questions:

These two Council meetings are especially interesting because they reveal rather more explicitly than usual the characteristic attitudes of the Great Powers towards the Danzig problem. This was, to be sure, the "era of good will" in League affairs; the spirit of Locarno was still strong, and the Pact of Paris was to be concluded during the coming year. For M. Briand and Herr Stresemann, however, the breakfast table at Thoiry was one thing and the Council table at Geneva, particularly when a Polish-Danzig dispute lay upon it, was bound to be another. Before Germany's admission to the League the Free City was without a champion in the Council, and, other things being equal, French support of Poland was certain to weigh the scales against her. It cannot be said that Danzig was unfairly treated in Geneva during these early years, but it should be noted that after 1926 she enjoyed the aid of a powerful protagonist. In the later stages of the Westerplatte controversy Herr Stresemann had, as remarked above, argued brilliantly and persuasively for the sovereignty of Danzig in the area; and his thesis was confirmed by a neutral committee of experts chosen to study the situation. The Polish case, laboriously constructed during seven years, seemed to be crumbling to pieces, and it could only have been the counsels of despair which provoked M. Strasburger to ask that the dispute be taken to The Hague. There remained M. Briand, and M. Briand was reluctant to see his eastern ally suffer outright defeat on the question. M. Briand succeeded, in fact, in arranging for the interment of the Experts' Report and the return of the conflict into the hands of the two most interested parties. In the meantime Sir Austen Chamberlin remarked, per-

⁴⁸ *Official Journal*, February 1928, pp. 161-67.

⁴⁹ *Ibid*, pp 181-82

haps a trifle wearily, that this was the seventeenth session on which the Council had dealt with the Westerplatte affair.⁵⁰

THE "PROVISIONAL" SETTLEMENT, 1928

The negotiations suggested by the Council⁵¹ resulted in the Provisional Agreement of August 4, 1928, which was terminable by either side on six weeks' notice but which actually continued indefinitely.⁵² Under its terms Poland agreed that the munitions-depot area should serve not only for the unloading and transshipment of war materials and explosives but, subject to the following principles, also for general commercial purposes. For this purpose the Westerplatte was divided into three zones. The first, or blue zone, was opened for use by merchant ships and general commercial transshipments. Its port and wharf traffic was administered by the Harbor Board, and its rail traffic by the Polish Railway Administration. The customs and police functions in this area were carried out in the same manner as in the other parts of the port. The Polish government had the right to demand the temporary evacuation of all or part of this blue zone for the purpose of transshipment of war materials and explosives, giving forty-eight hours notice if in need of the south side of the basin and seven days for the north side. The Polish government undertook to secure the observance of the safety regulations on the Westerplatte by all persons subject to its disciplinary powers.

The second, or red, zone served for the purpose of storing Polish munitions and war materials and was closed to general traffic. The president of the Danzig police, or his deputy, had the right of access to this part of the Westerplatte at any time to satisfy himself of the observance of safety regulations. In certain cases the Danzig customs officials also had access to the Westerplatte. In order to prevent smuggling, the Danzig customs officials were entitled to "sample" munitions shipments leaving the area, but not more often than twice a year. A third, or green, zone led through the red zone, thus allowing access by land to the blue zone.⁵³

⁵⁰ Foster MS, "The Free City of Danzig," pp. 231-32.

⁵¹ *Official Journal*, 1927, pp. 1423 ff. [Crusen, p. 403.]

⁵² No notice had been given by 1936, according to Matschke, *Grundlagen*, p. 118. The Provisional Agreement was satisfactory to the League Council (*Official Journal*, October 1928, pp. 1488-89). Text of the Agreement, in *Zusammenstellung, 1928-1932*, pp. 154-63, contains further details; a map of the three zones is in *ibid.*, p. 164.

⁵³ The High Commissioner stated at the time of the conclusion of the Agreement in a letter to the Secretary-General of the League: "According to expert

After eight years of disputation the controversy over the Westerplatte appeared to have come to a close. The "provisional" settlement of 1928 continued in force and seemed to be as permanent as anything known in Danzig-Polish relations, until a flare-up of angry emotions broke out in March 1933 over the old question of an armed guard at the munitions depot—a question which had not been dealt with as such in the agreement of 1928.

THE SIGNIFICANCE OF THE WESTERPLATTE CONTROVERSY

The fundamental significance of this controversy by far exceeded the importance—great as it was—of Poland's safe importation of munitions and war materials via the Free City. Danzig did not, and could not, deny Poland's definite rights. Nor was the danger of a munitions blow-up in the midst of a busy harbor, close to a large population, the main point of the argument, even though Danzig made the most of a munitions explosion which occurred in Cracow in 1927. The core of the controversy was the basic struggle over the status of the Free City. Fearing to concede a part of what she considered her sovereign rights, Danzig

fought Poland step by step throughout every stage of this unreasonably protracted controversy For its part, Poland, aided and abetted by France, stubbornly insisted upon a site on the island of Holm that lay near to the centre of the city. In doing so Poland alleged the better railway communications with that site. These alone seem hardly sufficient ground for Poland's taking upon herself the responsibility for compensation in event of great damage through an explosion. It is only possible to surmise the reasons that led Poland to desire to have an armed force in the centre of the city. At least Poland sought to reserve her right to increase this force at any time she deemed necessary. In any case it is undeniable that in the Westerplatte, as in the post-boxes controversy, Poland and Danzig were at one in displaying an uncompromising disposition.⁵⁴

THE DISPUTE OVER THE ARMED GUARD QUESTION, 1933

The day after the German election of March 5, 1933, which helped to put Hitler into power, Poland suddenly announced a "provisional enforcement" of her armed guard at the munitions depot. She increased its size to about one hundred men, armed with machine

opinion, we may rest assured that the safety of this port, in comparison with that of other seaports through which explosives pass, will be rather in excess of the normal than otherwise, in view of the special measures adopted for this traffic at Danzig" (*Official Journal*, October 1928, p. 1617).

⁵⁴ Morrow, *Peace Settlement*, pp. 95-96.

guns. Warsaw notified the High Commissioner of the accomplished fact, claiming that there was danger of a sudden attack on the Westerplatte depot "by certain Danzig elements."⁵⁵

The Poles may have believed that the time had come to make a show of force toward Danzig⁵⁶ for the purpose of putting Hitler and his revisionists into place. But it can hardly be said that the time or the issue was propitious for such a step. The international atmosphere was already loaded, and only an incident was needed to precipitate trouble of unpredictable proportions. The issue chosen by Warsaw and the way in which it was handled put Poland clearly in the wrong and played into the hands of Hitler and his Danzig cohorts, who, at that time, were not in power in the Free City, but were looking around for new issues with which to increase their strength among the local population.

It will be recalled that on June 22, 1921, Danzig and Poland had agreed that the size of the armed guard at the munitions depot should be determined by the High Commissioner in agreement with the Polish government, and that it should not be enlarged without his consent.⁵⁷ In April 1925 Poland announced her intention of stationing a detachment of two officers, twenty noncommissioned officers, and sixty-six men at the site. The High Commissioner asked the League Council for a decision of the question, in order that the presence of a guard of that strength might not be held to conflict with Article 5 of the Constitution of the Free City, which forbade its use as a military base. The Council declared that the size of the detachment was compatible with the constitutional provision.⁵⁸ From 1925 until March 1933 a Polish guard of that number had, therefore, been stationed at the depot.⁵⁹

THE HIGH COMMISSIONER ACTS

Mr. Rosting, then acting High Commissioner, sent a strong protest to the Polish Diplomatic Representative in Danzig, stating that the step announced by Warsaw would constitute a violation of the

⁵⁵ *Official Journal*, April 1933, p. 634. Poland gave as the reason for her action that on February 15 the Senate had terminated the arrangement of 1925 which provided for a detachment of Danzig police to be placed at the disposal of the Harbor Board (see above, p. 124). The fact was, however, that there was little actual change in the policing of the port, now done by the police of the Free City (Foster MS, "The Free City of Danzig," pp. 235-36). [Crusen, pp. 402-3]

⁵⁶ *Ibid*, p. 235.

⁵⁷ See above, p. 200.

⁵⁸ *Official Journal*, February 1926, pp. 137-38, 283-85.

⁵⁹ Foster MS, "The Free City of Danzig," p. 235, n. 2.

Agreement of June 22, 1921, and of the Council Resolution of December 19, 1925. He pointed out that under their provisions the guard at the depot "could not be increased until the Polish government had submitted an application to that effect to the High Commissioner and the latter had given the necessary authorization." Informed by the Senate a few hours later that "considerably more than one hundred men, armed with machine guns and other arms," had arrived at the Westerplatte depot, Mr. Rosting wrote to the Polish Diplomatic Representative that, if this report was correct, "I am obliged to request you to take the necessary steps for the withdrawal of effectives in question from the Westerplatte without delay." That same evening the Senate asked the High Commissioner for a decision to the effect that Poland must reduce the "garrison" on the Westerplatte to the prescribed strength. Danzig also demanded that this proceeding of the Polish government be established as a "direct action."⁶⁰

The High Commissioner continued to act energetically and quickly. On the following day, March 7, he dispatched a second letter to Mr. Papée, the Polish Diplomatic Representative. He wrote:

I venture to hope that the reply I am today expecting from you to my letter of yesterday evening requesting you to take the necessary steps for the effectives in question to be withdrawn from the Westerplatte without delay will render the Senate's request unnecessary.

Meanwhile, I fix the time-limits at forty-eight hours for the answer and at twenty-four hours for the replication and the rejoinder, and I am forwarding to the Secretary-General of the League of Nations the application for a decision that direct action has taken place, asking him to place it on the agenda of a Council meeting in the course of this week.

Mr Papée's answer was couched in evasive terms, obviously intended to gain time:

I desire once more to draw Your Excellency's attention to the purely provisional character of the reenforcement of the effectives of the Westerplatte guard detachment. Furthermore, the Polish Government wishes once more to give Your Excellency the firm assurance that it is not refusing to engage in conversations with the competent authorities regarding the substance of the question. The Polish Government has no intention of modifying in any way the relevant provisions now in force, which, moreover, could not in its opinion be modified by any provisional measures.

⁶⁰ *Official Journal*, April 1933, pp. 634-36. For a discussion of "direct action," see above, pp. 81-82.

With reference to the request of the Danzig Senate for a Decision by the League Council, Mr Papée stated, again avoiding the point at issue:

I desire to inform you that I am unable to examine the substance of this request, as the Senate has seen fit to use with reference to the Polish Government expressions which are offensive and not usual in official correspondence.⁶¹

Meanwhile the situation was growing more and more serious. It certainly was more menacing to German-Polish relations than any previous dispute and the issue of war and peace appeared to hang in the balance. Mr. Rosting

had taken unprecedentedly strong measures, but he had failed to induce the Polish Diplomatic Representative either to negotiate with the Danzig authorities or to take steps for the removal of the troops. The Poles were frightened for the safety of their munitions depot; they were skeptical of the High Commissioner's assurances that the Danzig authorities were capable of maintaining order in the Free City; and they had taken a position from which a graceful retreat became hourly more difficult.⁶²

On the other hand, the Danzigers were fearful of the effect of Poland's sending armed soldiers into a part of the territory of the Free City in violation of a previous Agreement between the two states, which had been in effect for twelve years, and of a pertinent Council Resolution passed some seven years previously. Danzig was wondering whether Poland intended to establish a precedent for further expansion of her military strength in Danzig; and, if so, the Free City asked, what was the value of prior agreements between the two governments which set definite limits for Poland's armed guard?

THE LEAGUE COUNCIL ACTS

The Council happened to be meeting at the time,⁶³ and on March 14 it met in special session, almost within a week of the outbreak of the dispute. Sir John Simon acted as the Rapporteur of the Coun-

⁶¹ *Official Journal*, April 1933, p. 637. Mr. Papée's reference is to the following paragraph in the communication from the Senate: "The considerable increase in the strength of the guard detachment on the Westerplatte, without the consent of the High Commissioner, an increase at variance with the Agreement and other provisions, is a measure which seriously endangers the public security of Danzig and the good relations between Danzig and Poland, since the Polish Government's action must be regarded as a most serious provocation by the population and is attended with the risk of incidents."

⁶² Foster MS, "The Free City of Danzig," pp 238-39.

⁶³ In connection with a dispute between Colombia and Peru

cil; Dr. Ziehm, the president of the Senate, represented the Free City; M. Beck, the foreign minister, spoke for Poland; M. Paul Boncour represented France, and Herr von Keller, Germany.

The Council's attitude was firm against Poland's precipitate action. Great Britain insisted on the immediate withdrawal of the troops, while France did not ask for their stay. Germany, of course, stood fully behind Danzig. Referring to the statements before the Council by Poland's Foreign Minister, the Rapporteur Sir John Simon stated:

The Polish Government, having recognized that the measures taken by it were not in conformity with the stipulations in force, and having declared expressly that those measures would not constitute a precedent, it was not in those conditions necessary for the Rapporteur to enter into the legal aspects of the question or to discuss the substance of those anxieties which he had no doubt were the motive of the Polish Government's action. The Council need not, in these circumstances, consider either the juristic or the substantial aspects of the matter . . .

M. Boncour pointed out, in conclusion, that the dispute had a wider meaning in the international situation of the time:

The Council was bound to draw all the necessary inferences from this incident and its settlement. While the settlement had been facilitated by the spirit of conciliation displayed, it had only been feasible because, apart from the action taken for that purpose by the Government of the Free City, the Senate and its President, order in Danzig was under the supervision of the League of Nations, which had one of its immediate representatives to watch over it on the spot. That fact should, in the present circumstances, confirm the League in its determination to ensure respect for order and security everywhere, and thus to work for the restoration of a feeling of confidence, of which, to say the least of it, there was great need.⁶⁴

Owing to the rapid and decisive action taken by the League Council and its High Commissioner in Danzig, the guard was reduced to its normal strength on March 16,⁶⁵ ten days after its unauthorized increase. The Westerplatte controversy thus came to an end. The credit for its quick and peaceful conclusion under the most unfavorable international circumstances goes to the League of Nations, as well as to the governments represented on the Council, who were willing to make full use of the extensive powers given to the League for the settlement of disputes between the Free City and Poland.

⁶⁴ *Official Journal*, April 1933, pp. 626-29.

⁶⁵ *Ibid.*, p. 640.

POLAND'S NAVAL RIGHTS: POLISH WARSHIPS IN DANZIG

Since a free and secure access to the sea was so important to Warsaw, it was not surprising that she gave early attention to naval questions. While her own coast was short and difficult to defend, it was precious. As the proud possessor of a growing navy and merchant marine, Poland sought to cultivate an overseas outlook among her people. Across the Baltic Sea, via Danzig and Gdynia, Poland's face was turned toward the United States, where many of her emigrants had found a new home and where she had received powerful assistance in the days of her struggle for national resurrection. It was also directed toward trans-oceanic areas in general, where she looked for trading opportunities¹ and even colonial potentialities.²

NO TREATY PROVISIONS FOR POLISH WAR VESSELS IN DANZIG

Since the Treaty of Versailles had not accorded to Polish war vessels any special rights in the port of Danzig, Poland sought to gain them in later years by continued efforts along various lines. When the Convention of Paris was in the process of preparation, each of the two Polish draft proposals submitted to the Conference of Ambassadors included a clause which would have given Poland the right to use the port of Danzig and its equipment for the anchorage, repairing and victualing of her warships. The Conference of Ambassadors did not, however, insert these provisions in the Convention.³ Instead, a resolution of the Conference dated May 7, 1920, declared that Poland could not be authorized to establish a military or naval base in the Free City.⁴ In addition, the Council of the League of Nations on November 17, 1920, insisted on the demilitarization

¹ See, e.g., Henryk Bagiński, *Poland and the Baltic, The Problem of Poland's Access to the Sea* (London, 1942), pp. 113-84, captioned "Poland as a Maritime Power."

² *Ibid.*, pp. 148-49.

³ Advisory Opinion, *Access to, or Anchorage in, the Port of Danzig of Polish War Vessels*, p. 133. Hereafter cited as *Polish War Vessels*. For a résumé of the problem, see above, pp. 90-91. [Crusen, *Der Pariser Vertrag*, pp. 417-22.]

⁴ *Ibid.*, p. 132.

of the Free City, going to the extent of demanding the insertion in the Constitution of Danzig of a provision prohibiting the use of the Free City as a military or naval base without the consent of the League.⁵

PERSISTENT POLISH EFFORTS

Besides wishing to protect her own coastline, Poland was asking for additional safeguards for her access to the sea via Danzig. Her early request to the League Council for a permanent mandate for the defense of the Free City was not granted,⁶ but the Permanent Advisory Commission suggested to the Council on December 1, 1920, that the Polish government "should be given sufficient harbourage in the port of Danzig to insure the sheltering and repairing of those small naval units which were given it by the Allies for the policing of its waters."⁷

Poland's demands for extensive military and naval rights in Danzig were thus repeatedly denied by the Allied Powers and the League Council. It remained true that for a number of years the Polish naval ships already in existence had no permanent port facilities. The new harbor of Gdynia was still in the early stages of construction and incapable of offering sufficient accommodations for warships, especially for repair purposes. Polish warships could, of course, visit the port of Danzig; but they possessed in it only the rights granted to any foreign men of war. Extended periods of stay and special privileges or instalments were not among them.

It was, therefore, not altogether surprising that Poland continued to seek special facilities for her warships. However, her insistence on naval privileges in the port of Danzig conflicted with the definite insistence of both the Conference of Ambassadors and the League Council against the establishment of a naval base in the Free City. The result was a Gordian knot of exasperating complexity.

In the continued pursuit of her efforts, Poland's delegation to the League addressed a letter to the President of the Council on March 5, 1921. In it, it demanded, *inter alia*, a "port d'attache" in the port of Danzig for the purpose of assuring the anchorage, victualing, and upkeep of the vessels of the Polish maritime police to which the Allies had appropriated certain naval units.⁸ At its session of June 1921 the Council adopted a resolution to the effect that there

⁵ See above, p. 79.

⁶ See above, p. 88.

⁷ Advisory Opinion, *Polish War Vessels*, p. 134.

⁸ *Ibid.*, p. 135.

was no reason to modify its earlier conclusions regarding the defense of Danzig.⁹ Concerning the question of the war vessels it added:

7. The High Commissioner should, however, be asked to examine the means of providing in the port of Danzig, without establishing there a naval base, for a "port d'attache" for Polish war ships¹⁰

Obviously, the Council intended to stand firm on the principle of the demilitarization of the Free City; but it also recognized the existing needs of the Polish warships.

THE HIGH COMMISSIONER'S DILEMMA

When the High Commissioner proceeded to make the examination requested by the Council he ran into considerable difficulties. French authorities were unable to define the term "port d'attache" satisfactorily. There was no English equivalent for it, as the French words were quoted in the English text. Somewhat ruefully he reported: "Local press opinion apparently gives it a wide meaning because it is stated that anyone who can form a *port d'attache* without also forming a naval base could square the circle."¹¹ As the introductory statement in the World Court's Advisory Opinion put it, the High Commissioner found himself "considerably embarrassed to know how to distinguish a 'port d'attache' from a naval base, and how to reconcile the rights of Danzig as a Free City with the claims submitted to him by the Polish authorities."¹² The High Commissioner concluded his report to the Council by saying that he regarded the question as a matter for naval experts rather than for him, but that he considered that Poland must be given every facility for mooring her warships in the port of Danzig under conditions which would preclude the establishment of a naval base and the violation of the

⁹ *Ibid.* The Council was here referring to its Resolution of November 17, 1920, which declared that "the Polish Government appears particularly fitted to be, if the circumstances require it, entrusted by the League of Nations with the duty of ensuring the defence of the Free City" (*Official Journal*, March-April, 1921, pp. 166-70). At the June 22, 1921, meeting the Council did "not consider it necessary to decide at the present moment under what conditions the defence of Danzig by sea should be secured" (*Official Journal*, September 1921, p. 672).

¹⁰ Advisory Opinion, *Polish War Vessels*, p. 136. The Rapporteur, Viscount Ishii, proposed in his report of June 22, 1921 that this paragraph 7 of the Council Resolution should apply also to the vessels of the Polish maritime police, for which Poland had requested the "port d'attache" referred to in the paragraph cited: "The Council must have agreed to this proposal although no resolution to that effect was adopted" (*ibid.*, p. 136).

¹¹ *Official Journal*, December 1921, pp. 1158-59. [Crusen, pp. 414-22]

¹² Advisory Opinion, *Polish War Vessels*, pp. 136-37.

engagements of the League of Nations and of the Government of Danzig.¹³

THE RECOMMENDATIONS OF THE NAVAL SUBCOMMISSION

The Council referred the High Commissioner's report to the Naval Subcommittee of the Permanent Advisory Commission for Military, Naval, and Air Questions, which heard statements from the Polish and Danzig naval delegates. In the course of these hearings the Polish naval delegate offered a definition of the difference between a "naval base" and a "port d'attache" to the effect that: "A 'naval base' is used only for war purposes, whereas a *port d'attache* supplies the normal needs of ships in peace time."¹⁴

As Morrow suggests,

The attitudes of the Powers to the Danzig-Polish question were revealed clearly in the course of the Sub-Commission's deliberations. The British members opposed the grant of shore establishments to Poland and upheld Haking's view that she should only be given a right of shelter and wharfage. The Japanese supported the British standpoint. The French held that the mandate given to Poland to defend Danzig, and her undoubted right to free access to the sea through Danzig, entitled her to permanent shore establishments. The Italian delegation proposed a compromise between these contradictory standpoints; namely, that shore establishments should be temporarily leased to Poland by Danzig. This suggestion was supported by Brazil, China, Spain, and Poland.¹⁵

The subcommission itself suggested to the Council on September 24, 1921, that Polish warships should be allowed to use the harbor of Danzig until such time as the new Polish port of Gdynia was completed, offering a list of recommendations for the conditions under which they should be allowed to use the port. As the Advisory Opinion of the World Court states, this document

. . . shows the importance which the naval advisers to the Council attached to the practical aspects of the situation. They were unanimous in thinking that facilities for sheltering, taking in stores and effecting repairs should be granted to the Polish war vessels; but they were not unanimous as to how such facilities could best be ensured, particularly as to whether or not Poland should be given any establishment on shore.¹⁶

In regard to the specific recommendations for the regulations

¹³ Advisory Opinion, *Polish War Vessels*, p. 137. Morrow comments on this part of the High Commissioner's recommendation: "This may not have been tantamount to squaring the circle. It was certainly equivalent to making the full round of the circle." (*Peace Settlement*, p. 101.)

¹⁴ Morrow, *op. cit.*

¹⁵ *Ibid.*

¹⁶ Advisory Opinion, *Polish War Vessels*, p. 137.

governing the stay of Polish war vessels in Danzig, the World Court added:

Their idea would seem to have been to effect a friendly settlement of a question which they must have regarded as urgent because, until such time as the port of Gdynia, then under construction, was completed, the units of the Polish fleet had no place other than Danzig in which they could safely pass the winter. For this reason, the proposals made by the Naval Sub-Commission were to last only until Gdynia was ready.¹⁷

THE PROVISIONAL ARRANGEMENT, 1921

Before the Council considered this report at its January 1922 session, a Provisional Arrangement between Danzig and Poland was agreed upon on October 8, 1921, with the help of the High Commissioner, acting on the instructions of the President of the Council. Under its provisions Poland was to continue to use the port of Danzig for her warships until the question of a port d'attache was decided by the League Council. She was to inform the President of the Danzig Senate regarding the number of ships she wished to keep in the port, and the President of the Senate would raise no objection to their stay. The Harbor Board was to provide the necessary berths for these ships. It was agreed that this arrangement would not commit either side as regards any agreement on the subject between them or any future decision of the Council.¹⁸

This Provisional Arrangement remained in force for ten years.¹⁹ In both 1925 and 1927 the Senate of the Free City claimed that progress in the construction of the port of Gdynia made it possible for Polish warships to find in that port the needed shelter and facilities.²⁰ Indeed, it stated, it had been used for that purpose in the winter of 1926-27. When Danzig gave notice of termination of the arrangement, Poland refused to accept it. Danzig then requested the Council to re-examine the question and to make a final decision, claiming that the "permanent possibility of an unannounced and indefinitely long stay on the part of an indefinitely large number of Polish warships

¹⁷ *Ibid.*

¹⁸ *Ibid.*, pp 137-38; *Zusammenstellung, 1920-1923*, pp 208-9

¹⁹ Subject to some additions laid down in a Regulation issued by the High Commissioner on September 19, 1931, in pursuance of a Council Resolution adopted with the participation of the two governments concerned. This regulation provided that Poland would continue to use the port of Danzig for her war vessels as during these last years, until the question of their access to and anchorage in the port of Danzig was settled definitely by the Council of the League (Advisory Opinion, *Polish War Vessels*, pp 138-39. Text of the regulation in *Zusammenstellung, 1928-1932*, pp. 170-75). [Crusen, pp. 415-17.]

²⁰ Advisory Opinion, *Polish War Vessels*, p. 139.

in the port of Danzig" conflicted with the provision in the Constitution of the Free City, as guaranteed by the League of Nations, whereby Danzig cannot serve as a naval base.²¹ Danzig's most important argument was, however, that neither the Treaty of Versailles nor any other treaty conferred upon Poland naval rights in the port of Danzig which differed from those enjoyed by any power anywhere in the world.²²

Dr. Stresemann was unable to induce the Council to make an immediate decision at its September 1927 meeting.²³ The following year Danzig and Poland agreed to prolong the existing Provisional Arrangement until July 1, 1931, both parties stating that this was done without prejudicing their respective legal standpoints.²⁴ In March of that year the Senate denounced this agreement; but it was prolonged twice for short periods, until at its meeting of September 19, 1931, the League Council decided to seek an advisory opinion of the World Court on the legal aspects of the question, at the same time approving regulations governing the use by Polish warships of the port on a provisional basis.²⁵

THE ADVISORY OPINION

The World Court was asked to advise on the question whether the provisions of Section XI of Part III of the Treaty of Versailles or of the Convention of Paris of November 9, 1920, or the relevant decisions of the Council of the League of Nations or of the High Commissioner, conferred upon Poland rights or attributions as regards the access to or anchorage in the port and waterways of Danzig of Polish war vessels; and, if so, what were those rights and attributions?²⁶

After presenting a statement of the important facts in the case, the Court turned to the examination of the Polish arguments and declared: "The claims of the Polish Government in this case have not been defined in very precise terms." It then repeated the conclusions of the Counsel for the Polish government at the close of his main oral argument as follows:

²¹ Advisory Opinion, *Polish War Vessels*, p. 139; see also *Official Journal*, December 1931, pp. 2253-61 and 2429-42, for the review of the whole situation by the Council at its meeting of September 19, 1931.

²² *Ibid.*

²³ *Official Journal*, October 1927, pp. 1121-26.

²⁴ Agreement of August 4, 1928 (*Zusammenstellung*, 1928-1932, pp. 166-67).

²⁵ *Official Journal*, December 1931, pp. 2253-61, 2429-42. See n. 19 concerning the use of the port by Polish warships until final settlement of the question by the League Council. [Crusen, *Der Pariser Vertrag*, p. 417.]

²⁶ Advisory Opinion, *Polish War Vessels*, p. 140 [Crusen, pp. 417-22.]

On the first part of the question, he invited the Court to say that it follows from the principles which are the basis of the international status of Danzig and from the decision of the Council of the League on June 22nd, 1921, that Poland has acquired for her warships, under the denomination of a "port d'attache," rights of access to and anchorage in Danzig; and on the second part of the question, to say that these rights of access and anchorage and the privileges resulting from them have not been worked out or settled.²⁷

The Court continued:

The claim so stated is not very clear, but the general tenour of the documents and arguments which have been submitted to the Court shows that Poland is claiming that her warships are entitled to go into the port of Danzig and to remain there as of right, without obtaining the consent of the authorities of the Free City, and that while in the port these war vessels are at liberty to ship such stores and execute such repairs as they may need.²⁸

The Court pointed out that no question arose in this case as to the rights of warships in general to enter a foreign commercial harbor. Instead:

What Poland is claiming is a right which is peculiar to herself at Danzig, a right which results from the special position which she occupies in relation to the Free City, a right which she claims to derive from the principles underlying the various treaty stipulations in force and which would give her warships a special position different from that enjoyed by the warships of foreign powers . . .

The fact that Poland claims special rights and privileges for her war vessels in the port of Danzig, renders it necessary to find some juridical basis for the claim. The port of Danzig is not Polish territory, and therefore the rights claimed by Poland would be exercised in derogation of the rights of the Free City. Such rights must therefore be established on a clear basis.²⁹

The Advisory Opinion went on to state that Section XI of Part III of the Treaty of Versailles made no mention of Polish war vessels in connection with Danzig and contained no stipulations specially conferring any rights upon them.³⁰ Because that fact alone was not sufficient to dispose of the question, the Court examined these provisions in order to see "whether their natural interpretation would cover such rights as are now claimed by Poland, even though they make no specific mention of war vessels."³¹

²⁷ Advisory Opinion, *Polish War Vessels*, p. 140.

²⁸ *Ibid.*, pp. 140-41.

²⁹ *Ibid.*, pp. 141-42.

³⁰ *Ibid.*, p. 142.

³¹ *Ibid.*

ARTICLE 104, TREATY OF VERSAILLES

The only Article in this section of the Treaty of Versailles which affects Poland is Article 104, in which the Principal Allied and Associated Powers charge themselves with the duty of negotiating a treaty between Poland and Danzig for the purpose of insuring Poland the rights enumerated in that Article. In the words of the Court:

All these paragraphs bear some relation to the free and secure access to the sea which had been promised to Poland though nothing to that effect is said in the Article. The most important paragraph in the Article in connection with this case is No. 2, which gives as one of the purposes of the treaty to be negotiated that of "ensuring to Poland without any restriction the free use and service of all waterways, docks, basins, wharves and other works within the territory of the Free City necessary for Polish imports and exports.

The Court continued:

The natural interpretation of these words is that Poland is only to enjoy the unfettered use of the port and its equipment for commercial purposes, and this is what is stated in the Convention of Paris, Article 26 of which provides that "it shall be the duty of the Harbour Board to assure to Poland the free use and service without any restriction, and in so far as may be necessary for Polish imports and exports, of the port and the means of communication referred to in Article 20." This provision cannot be held to confer upon Poland a right of access and anchorage for war vessels.³²

THE POLISH CONTENTION

The Court pointed out that this conclusion was in accord with the view of the Counsel for the Polish government:

The Polish contention is that it is not the terms of the Treaty of Versailles which confer the right of access and anchorage upon her war vessels, but the principles underlying the establishment of the Free City in accordance with Section XI of Part III, and it is upon that ground and not on the specific terms of the articles in the Treaty that she is entitled to rely on the Treaty of Versailles.

If the Court rightly appreciates the Polish argument, it is that the known antecedents of the Treaty of Versailles, i.e. the promise that Poland is to enjoy free and secure access to the sea, entail an interpretation of the treaty texts relating to the establishment of the Free City which will give effect to the Polish claims. Three principles are said to be inherent in the establishment of Danzig as a Free City, and it is

³² Advisory Opinion, *Polish War Vessels*, pp. 142-43

these three principles which are the basis of the Polish claim: the necessity for ensuring free access to the sea for Poland, the intimate relations which were to exist between Danzig and Poland, and the necessity of providing for the defence of the Free City

THE COURT DISAGREES

The Court is unable to accept this reasoning. The promise to Poland at the time of the peace settlement after the war of 1914–1918 of a free and secure access to the sea is a matter of history of which the Court is prepared to take notice, but no materials and no reasons have been submitted to it for assuming that the contents of Section XI of Part III of the Treaty of Versailles, as carried into effect by the Convention concluded in pursuance of Article 104 of that Treaty, do not constitute a complete fulfilment of the promise. The Court is not prepared to adopt the view that the text of the Treaty of Versailles can be enlarged by reading into it stipulations which are said to result from the proclaimed intentions of the authors of the Treaty, but for which no provision is made in the text itself.

Furthermore, the Court is not satisfied that the principles which are said to be inherent in the establishment of Danzig as a Free City afford any basis for a claim of right on the part of Poland for access to and anchorage for war vessels in the port of Danzig. The Treaty of Versailles imposed no responsibility upon Poland for ensuring the free access to the sea which it was the intention of that Treaty that she should enjoy, nor does it impose upon her any responsibility for the defence of Danzig. It is upon the League of Nations that the responsibility is imposed in both cases. The Court is not prepared to accept the view that these principles, relied upon on the part of Poland, are sufficient to support the claim which she is now advancing.³³

THE TREATY OF PARIS

The Court added that the important provisions of the Convention of Paris were Articles 26 and 28, which gave Poland the unrestricted use of the port of Danzig for her imports and exports. In the words of the Advisory Opinion: "The normal use of warships is not to effect imports and exports, and the Polish representatives have not suggested in their arguments before the Court that the unrestricted use of the port for imports and exports can cover a general right of access and anchorage for warships."³⁴

The Court concluded its reasoning on this part of the question before it by stating:

The result is that neither the Treaty of Versailles nor the Convention

³³ *Ibid.*, pp. 143–45.

³⁴ *Ibid.*, p. 145

of Paris, either by the terms of the provisions they contain, or by necessary implication, confers on Poland the right she is now claiming.³⁵

The Court had also been asked to advise whether the relevant decisions of the League Council and of the High Commissioner conferred upon Poland rights and attributions as regards access and anchorage for her war vessels. The Court pointed out that no decisions by the High Commissioner were in fact relied upon for substantiation of the Polish claim, adding: "It may, therefore, be assumed that there are no decisions by the High Commissioner which confer upon Polish war ships the rights now claimed, and it is therefore only relevant decisions of the Council of the League which have to be considered."³⁶

THE COUNCIL RESOLUTIONS: THE POLISH CLAIMS

The Council Resolution relied upon by Poland was paragraph 7 of the Resolution of June 22, 1921, already referred to, which must be read in connection with that adopted by the Council on November 17, 1920, dealing with the same subject. As stated in the Advisory Opinion, the Resolution of 1921 accepted the view expressed in the earlier document

that the Polish Government was specially fitted to ensure, if circumstances required it and in the conditions which were there laid down, the defence of Danzig by land, and postponed any decision as to the conditions under which the defence of Danzig by sea should be secured. The last paragraph of the Resolution was worded as follows: "The High Commissioner should, however, be asked to examine the means of providing in the port of Danzig, without establishing there a naval base, for a 'port d'attache' for Polish warships."³⁷

Poland maintained before the Court that

in the light of the Council's recognition that Poland was the State best qualified, if circumstances required it, to undertake the defence of Danzig, and in the light of the action which Viscount Ishii proposed in his report of the same date should be taken on the Polish demand for a "point d'attache" for the Polish maritime police vessels, the Resolution must be regarded as more than a mere direction to the High Commissioner to study the question, and that it was intended by the Council to constitute a definite acceptance in principle of the Polish claim, leaving over for future regulation the details as to how practical effect was to be given to the rights involved.³⁸

³⁵ Advisory Opinion, *Polish War Vessels*, p. 145.

³⁶ *Ibid.*, pp. 145-46.

³⁷ *Ibid.*, p. 146.

³⁸ *Ibid.*, pp. 146-47.

The Court was unable to agree with the Polish claims:

It is difficult to see in the text of the Resolution any justification for this view. It is in terms no more than a direction to the High Commissioner to examine the question. It does not necessarily imply that the Polish claim had been accepted in principle, and the reports which were subsequently made by the High Commissioner and by the Naval Sub-Commission of the Permanent Advisory Commission show no trace of any realization on their part that the important question of principle in connection with a "port d'attache" at Danzig for Polish war vessels had already been settled by the Council. If the Council had intended its resolution to operate as the grant in principle of the right to a "port d'attache" at Danzig, it is strange that it should have taken no steps to correct the misapprehension into which the High Commissioner and the naval advisers of the League had fallen. It is equally difficult to understand how in such circumstances the Council could itself have said in January 1922 that "until the question [of] the 'port d'attache' has been considered by the Council, the preliminary agreement [the Provisional Arrangement of October 8th, 1921] will remain in force," and again how it could have said in December 1925 that the question remains open.³⁹

THE COURT'S "CORRECT VIEW"

The Court continued to the effect that the "correct view" of paragraph 7 of the 1921 Resolution was

that it is no more than what its terms imply—a direction to the High Commissioner to examine how Poland could be given at Danzig a "port d'attache" for her war vessels without constituting a naval base. Until that question had been properly investigated, it would have been difficult for the Council to take any decision of principle. The Resolution constituted the initiation of a study which was interrupted by the conclusion of the Provisional Arrangement of October 1921, an interruption which has resulted in the fact that no final and definitive decision has ever yet been taken.⁴⁰

The Court finally stated:

The general conclusion which may safely be drawn from the terms of this Resolution and from the various relevant documents, such as the reports of Viscount Ishii, and from the reports . . . is that the Council realized the practical importance of the question of providing shelter and harbour facilities for the vessels of the Polish fleet, the exact extent of such facilities and the conditions in which they shall be accorded, as well as the legal possibility of according them, being matters as to which

³⁹ *Ibid*, p. 147.

⁴⁰ *Ibid*, pp. 147–48.

further enquiries were necessary. Whether or not there may still be a need for some such facilities to be accorded to Poland is not a matter which falls within the jurisdiction of the Court. The task of the Court is limited to the interpretation and effect of such treaty stipulations as may be in force and such relevant decisions as may have already been taken.⁴¹

THE ADVISORY OPINION

For these reasons the Court on December 11, 1931, by eleven votes to three, was of the opinion that:

The Treaty of Peace of Versailles, Part III, Section XI, the Danzig-Polish Treaty concluded at Paris on November 9th, 1920, and the relevant decisions of the Council of the League of Nations and of the High Commissioner, do not confer upon Poland rights or attributions as regards the access to, or anchorage in, the port and waterways of Danzig of Polish war vessels.⁴²

The Advisory Opinion of the World Court was adopted by the League Council at its meeting of January 29, 1932, at which time

⁴¹ Advisory Opinion, *Polish War Vessels*, p. 148.

⁴² M. Urrutia, Judge, dissented without giving a statement of his reasons. M. Fromageot declared that, while the treaties in question make no mention of Polish war vessels as being entitled to the free use of the port of Danzig, "nevertheless the recognition, made in the written negotiations preceding the Treaty of Peace, of a right on the part of Poland to 'free and secure access to the sea,' a right inherent in the creation of the State of Poland and of the Free City of Danzig, cannot be regarded as a mere historical fact without significance and renders it impossible equitably to exclude from such free access, for the purposes of their nautical requirements, Polish war vessels or any other Polish ships other than merchant ships." Count Rostworowski presented a long dissenting opinion in which he drew the following conclusions:

"Rightly interpreted, Article 104, paragraph 2, of the Treaty of Versailles confers on Poland in principle rights in regard to the access and anchorage of Polish warships in the port and waterways of Danzig which are substantially similar to the attributions which were and remain granted to Poland by the relevant decisions of the Council dated January 12th, 1922, and September 19th, 1931, together with the relevant decision of the High Commissioner dated September 19th, 1931.

"However, the regulation of the aforementioned rights and attributions, under Article 102 of the Treaty of Versailles, rests with the League of Nations in so far as any given use of the port by Polish warships, authorized in principle by Article 104, paragraph 2, of the Treaty of Versailles, would be likely to threaten the security of Danzig, which is placed under the protection of the League of Nations." *Ibid*, pp. 149-61.

Professor Victor Bruns acted as the Judge *ad hoc* on this occasion. Sir John Fischer Williams, Agent, argued before the Court on behalf of the Danzig Government and M. Moderow, Agent, and Ch. de Visscher, Counsel, on behalf of the Polish Government (*ibid.*, pp. 128, 131). The relevant documents and pleadings are found in Permanent Court of International Justice, Series C, No. 55, a volume of some 450 pages.

it suggested to the two governments that they conclude an agreement based on the Court's conclusions.⁴³

THE SETTLEMENT OF AUGUST 13, 1932

On August 13 of the same year Danzig and Poland signed a Protocol concerning the entrance and stay of Polish warships in the port of Danzig, which settled the extended controversy.⁴⁴

At a meeting under the chairmanship of the High Commissioner, the representative of the Free City made a declaration which the representative of Poland noticed with satisfaction. According to it, the Senate had endeavored to meet Polish desires concerning facilities in the port for the Polish warships in the wish to contribute to the improvement of relations between Poland and Danzig. In addition to the generally acknowledged international rules concerning the visits of foreign warships,⁴⁵ Danzig granted the following facilities to Polish warships and all other Polish ships which did not serve commercial purposes: (1) at the beginning of each year the Polish government would officially inform the Senate of the names of the ships which would make use of the port in the course of the year. In case there should be changes in this list, the Senate would be notified of them in each instance. Before the entrance of each ship the Polish Diplomatic Representative must inform the Chief Pilot of the port of the number and names of the ships, as well as the purpose and the length of their stay. This notification must take place at the latest by 6:00 o'clock of the preceding day and might be made by telephone or telegraph. (2) In general, salutes and official visits would be waived by the Senate when the visits took place for economic reasons, such as supplies and repairs. The official visits of the Polish navy were to be regulated in each individual case by agreement between the Senate and the Polish government, with consideration of the pertinent decisions and agreements. (3) Polish warships coming directly from Polish ports were not subject to the ordinary sanitary regulations. (4) There was no limit on the number of Polish ships of the foregoing description which might enter the port for economic reasons at the same time. (5) The length of their stay for economic pur-

⁴³ Poland had asked the Council to take action contrary to the findings of the World Court, thus furnishing a possible precedent for "any Government anxious to alter the provisions of the Peace Treaties by declaring that these provisions did not wholly correspond to the real intentions of the Peace Conference" (quotation from Morrow, *Peace Settlement*, p. 105, also *Official Journal*, March 1932, pp. 663-64, 488-89) [Crusen, p. 418]

⁴⁴ *Zusammenstellung*, 1928-1932, pp. 172-75.

⁴⁵ Stated in Supplement to the Agreement of August 13, 1932; *ibid.*, pp. 176-85. [Crusen, p. 420.]

poses was not limited. (6) The Chief of Police of the Free City would ordinarily issue permits to unarmed shore patrols for the supervision of large numbers of crew members on leave. If the permit was denied in exceptional cases, the reasons for the denial would be furnished. (7) Each difference of opinion between Danzig and Poland over the entrance, stay, or passage of these ships in Danzig waters should be submitted to the decision of the High Commissioner. His decision should be subject to immediate execution, regardless of possible appeals to the League Council. (8) No changes would be made in these facilities for a period of three years.⁴⁶

After the Protocol had been signed, the representative of Poland declared that the natural consequence of the settlement of the question would be that as far as possible the Polish government would have Polish warships repaired in Danzig.⁴⁷

Thus after twelve years of disputation Danzig and Poland were able to reach a common-sense agreement. Before it was signed the naval incident of June 1932 (referred to previously) had taken place⁴⁸ on the occasion of the entrance of a Polish destroyer into the port of Danzig for the purpose of paying a courtesy call on the British destroyer flotilla lying in the harbor. At least, the incident served to precipitate final action on the settlement, valid for no less than three years.

THE FUNDAMENTAL ASPECT OF THE DISPUTE

The question of the rights of Polish warships in Danzig had considerable practical importance to Poland during the first few years after 1919, prior to the construction of Gdynia, and possibly afterward to the extent that adequate repair facilities were lacking in Gdynia. However, the real significance of this and other controversies far transcended these immediate considerations. Whether the disputes concerned the question of Polish postal service, the munitions depot on the Westerplatte, or the port d'attache, the principle at stake was the fundamental legal status of the Free City and, consequently, the fundamental legal nature of the relationship of the Free City and Poland and of the rights and privileges of Poland in Danzig. As an English observer puts it: "All these questions turn upon

⁴⁶ *Zusammenstellung, 1928-1932*, pp. 172-75.

⁴⁷ Supplement No. 2 to the same Protocol; *ibid.*, pp. 184-85. It will be recalled that Polish interests were represented in the consortium which owned the *Danziger Werft* (Shipbuilding Company, Ltd.), together with Danzig, English, and French interests.

⁴⁸ See above. pp. 191-93.

the nature and extent of Danzig sovereignty. In other words—the independence of Danzig is the stake played for between the two governments who were destined by the Peace Treaty of Versailles to live together in amity and to engage in a common trading and commercial association to their mutual advantage.”⁴⁹

But before the two parties could settle down to agree on practical aspects of their relationship, they fought bitterly and with unending determination over the basic principles of their relationship, which, under existing international law, were largely determined by the answer to the question whether the Free City of Danzig was a state under international law, with corresponding rights and privileges, or was something else.

⁴⁹ Morrow, *Peace Settlement*, p. 106.

THE STATUS OF THE FREE CITY OF DANZIG UNDER INTERNATIONAL LAW

The international legal position of the Free City of Danzig had been outlined only roughly in a few articles of the Treaty of Versailles.¹ Further pertinent provisions were contained in the treaty between Poland and the Free City, of November 9, 1920, the so-called Convention of Paris,² which had been negotiated by the Principal Allied and Associated Powers in accordance with Article 104 of the Peace Treaty.

As time elapsed and actual problems and disputes came up for consideration and settlement, it became feasible and necessary to elaborate the early provisions. Many legal aspects of the status of the Free City, with their corresponding international rights and duties, were worked out in great detail. This was accomplished in part in frequent and extended negotiations between Poland and Danzig, often under the direct auspices of the League of Nations and with the direct co-operation of its High Commissioner, and resulted in numerous treaties, agreements, and protocols between the two parties. Where negotiations failed to result in agreements, binding decisions of the High Commissioner or, on appeal, of the Council of the League accomplished the task, frequently with the special assistance of legal and other technical experts provided by the League and, on several occasions, with the help of Advisory Opinions of the World Court.

TWO LEGAL CHARACTERISTICS OF THE FREE CITY

The international position of the Free City of Danzig was without duplicate or parallel anywhere, at any time in history.³ It possessed two important legal aspects. As the World Court put it in one of its Advisory Opinions:

¹ Articles 104-8. Text in Appendix A, pp. 323-25.

² Text in Appendix B, pp. 325-32.

³ Dr. Cray ("The Free City of Danzig, Its Economic and Political Development since the Peace Treaty," p. 101), points out that Charles de Lannoy in his article, "Le Règlement de la Question de Dantzig," *Revue de Droit International* (Series 3, Vol. II, pp. 450-51), sees a precedent for the Free City of Danzig in the Republic of Cracow created by the Congress of Vienna in 1815. Dr. Cray describes it as "a sovereign state under an international protectorate with a very limited amount of economic independence. However, unlike the Free City of Danzig, it was

The special juridical status of the Free City is seen from the above [the Court's discussion of the Treaty of Versailles and the Convention of Paris] to comprise two elements: the special relation to the League of Nations, by reason of its being placed under the protection of the League and by reason of the guarantee of the constitution, and the special relation to Poland, by reason of the conduct of the foreign relations of the Free City being entrusted to the Polish Government.⁴

The fact that the international legal position of the Free City was without precedent makes its careful examination and clarification the more important. A clear answer to the question whether the Free City was or was not a state under international law often provides the student with the answer to important problems arising in the relationship of Danzig and Poland. If a precise definition could have been worked out during the early days of the Free City, a saner balance of rightful demands by the two parties upon each other would have resulted and a quicker and more ready fulfillment of clearly established obligations. If this had not been the case, and if extreme and unjustified demands had been advanced anyway, their adjudication could have taken place more quickly, considering that special machinery for settling disputes was already available and in good working order. Much of the friction and bitter disputation that marred the relations between Danzig and Poland could thus have been avoided. The feelings of both Germans and Poles would have had fewer occasions to become excited, resulting in fewer and less vociferous demands for revision of the Danzig settlement in favor of one or the other party. A better atmosphere could have prevailed, in which people could have grown accustomed in the course of years to the features of the settlement that were new and disturbing. Attention would have been focused more strongly on economic factors, resulting in a greater degree of co-operation.

THE CONFLICTING CONCLUSIONS OF PUBLICISTS

The unusual features of the international legal status of the Free City of Danzig have been commented on by many publicists⁵ but made a neutral state and given the right of legation. While Danzig has only one representative of the protective powers, the High Commissioner, the Republic of Cracow had a representative from each of its protectors, who formed the College of Commissars of Cracow, and whose principal duty it was to protect the interests of their own states"

⁴ Advisory Opinion of August 26, 1930, *Free City of Danzig and International Labour Organization*, Publications of the Permanent Court of International Justice, Series B, No 18, p. 11. [Crusen, *Der Pariser Vertrag*, pp. 71, 552]

⁵ See Julian Makowski, *Le Caractère Étatique de la Ville Libre de Dantzig* (Warsaw, 1933), pp 49-57, for a digest of the conclusions of 65 publicists in Poland.

have been examined carefully by only a few. Their conclusions, whether brief or elaborate, display no unanimity of scholarly opinion. While the disagreement appears due in part to the nationalistic prejudgments of some writers, it is, in many cases, the result of an attempt to judge the legal status by reference to the few and not very definite articles of the Treaty of Versailles and, perhaps, in addition, to the almost as meager provisions of the Convention of Paris. This is not sufficient in view of the complexity of the legal questions involved.

POLISH AUTHORS

Polish writers tend to agree that the Free City does not possess international statehood, although they differ on what its exact status is.⁶ Professor Juljan Makowski, former professor of international law at the Warsaw School of Political Science and also one-time head of the Treaty Section of the Polish Foreign Office, concluded as late as 1933 that Danzig "is not a state in the international legal sense but a municipal corporation integrated in the sovereign system of the Polish State."⁷ Previously, he had called the Free City "an autonomous entity over which Poland extends her sovereignty, and which is united with her by what is improperly called an administrative protectorate."⁸ He also concluded that its inhabitants were only a separate group of Polish nationals.⁹

Professor Ludwik Ehrlich, former Director of the Institute of Law at the John Casimir University of Lwów (Lemberg) and at times the Polish national judge on the World Court, also denied that Danzig was a state in the international sense; it was not a person under international law, but an autonomous territorial corporation for which Poland is responsible in the field of international relations.¹⁰ In a letter to the present writer he considered that the "lack of international statehood and sovereignty which appears to me characteristic of the status of Danzig finds an analogy in the status of the

France, Danzig, Germany, Great Britain, United States, Italy, the Netherlands, and Argentina. He states (on p. 13) that of these writers 9 considered Danzig a sovereign state, 39 considered it a semi-sovereign state, 14 denied its statehood, and 3 called it *sui generis*. [Crusen, pp. 5, 539-40.]

⁶ See, briefly, Makowski, *Caractère Étatique* . . . , pp. 49-50.

⁷ *Ibid.*, p. 6.

⁸ In his study "La situation juridique du territoire de la Ville Libre de Dantzig," *Revue Générale de Droit International Public*, 1923, p. 213.

⁹ *Ibid.*, p. 194.

¹⁰ In his books in the Polish language on *International Law* (1932) and on *Danzig* (1926), according to Makowski, *Caractère Étatique*, p. 49.

mandated territories, with the exception of Iraq."¹¹ In his opinion, "relations between subjects of international law may have for their objects (apart from human beings, etc.) the territory of one of them or, again, territories without a sovereign, such as the open sea or mandated territories or Danzig."¹²

Other Polish writers may be quoted briefly from Professor Makowski's résumé: S. Adler refers to the Free City in the Polish *Dictionary of Public Law* as belonging to the category of intermediary juridical entities, an organ *sui generis*. Z. Cybichowski in his book on *International Law* (1928) calls Danzig a community resembling a state, denying that it is an independent state; while J. Firstenberg in his study of the *Port of Danzig under International Law* (1927) calls it a juridical entity *sui generis*. M. Gasiowski in his study of *The League of Nations and the Problem of Peace* (1927) designates Danzig a city under the sovereignty of Poland, while St. Kutrzeba in his studies of *Upper Silesia* (1923) and *The Slavic World* (1927) refers to the Free City as a person in the field of international relations subject to the protectorate of Poland and not a sovereign state. A. Peretiatkowicz, *The Modern State* (1928) also calls the Free City a juridical community resembling a state, further stating that this quasi state lacks sovereignty. M. Starzynski in his *Organization of the European States after the War* (1926) considers Danzig a miniature state, not possessing sovereignty. B. Winiarski in his study *The Polish Rivers under International Law* (1922) also calls Danzig a state without sovereignty, while A. Roman's *The Political Organization of the Free City of Danzig* (1926) calls it an autonomous territorial corporation under the sovereignty of Poland, thus expressing the same opinion as Professors Makowski and Ehrlich.¹³

DANZIG WRITERS

The legal authors domiciled in Danzig encounter less difficulty than the Polish scholars in recognizing the attributes of independent statehood in the Free City. Writing in the *Wörterbuch des Völkerrechts und der Diplomatie* (1923-1926),¹⁴ Dr. Georg Crusen, former Chief Justice of the Supreme Court of the Free City, presents a

¹¹ Letter dated February 27, 1930.

¹² *Ibid.*

¹³ Makowski, *Caractère Étatique* . . . pp 49-50.

¹⁴ Edited by Hatschek and Strupp, "Versailler Frieden—Danzig," III, 137. See also his "Les Servitudes Internationales" in *Recueil des Cours*, 1928, III, Vol. 22, p. 41. Prior to his election as Chief Justice of the Free City in 1925, Dr. Crusen was a member of the German Reichsrat and Chief of the Section in the Prussian Ministry of Justice which dealt with the execution of the Treaty of Versailles.

carefully argued résumé of the international legal position of Danzig. He concludes that Danzig is an independent state and an independent member of the international legal community under the protection of the League of Nations. Poland's special rights in her relations with Danzig are to be designated state servitudes; Poland, in turn, has important obligations toward Danzig. Danzig does not stand in a protectorate relationship either to Poland or to the League of Nations.

Landgerichtsdirektor Dr. Otto Loening, former vice-president of the Danzig Volkstag and Lecturer in Law at the Technische Hochschule in Danzig, considers Danzig a sovereign state in spite of the close political and economic connections between her and Poland. The various restrictions which Danzig has been obliged to accept in her relationship with the League still leave her a sovereign state, although it is doubtful whether her relationship to the League is to be classified as protectorate, protection, or guaranty, and Danzig is not a Polish protectorate.¹⁵

OTHER GERMAN PUBLICISTS

Other German writers freely disagree in their classification of Danzig's status under international law.

Professors Walther Schucking and Hans Wehberg deny, in their well-known commentary on the Covenant of the League of Nations, that the Free City is a part of Polish territory enjoying a certain privileged position; but they also deny that it possesses the character of a fully sovereign state. In their opinion, Danzig is doubtless a state but one which in certain directions is limited in its sovereignty in favor of Poland. Nothing prevents us, according to these commentators, from classifying this relationship under the category of "semi-sovereignty." One must refrain, however, from drawing from this general theory far-reaching conclusions as to concrete legal questions concerning the relations between Poland and Danzig; for the only correct doctrine of international law is that each such legal relationship has to be considered individually. The legal status of a semi-sovereign state has to be examined in each particular case and the rights of the suzerain do not extend further than provided by

¹⁵ Otto Loening, *Die Rechtsstellung der Freien Stadt Danzig* (Berlin, 1928), p. 25. Rudolf Pfeuffer in his *Die völkerrechtliche Stellung der Freien Stadt Danzig* (Danzig, 1921), p. 93, calls Danzig a sovereign state under the protection of the League of Nations. Hans Leonhardt, *Nazi Conquest of Danzig*, p. 292, states that Danzig "had not all the attributes of sovereignty; she had not what in German legal doctrine is called *Kompetenzkompetenz*, that is to say, the competency to define her own competency." Dr. Leonhardt appears to base his statement on Tigler and Levèsque, to whom he refers in a footnote.

treaty.¹⁶ The tendency of the provisions which place Danzig under the protection of the League of Nations is apparently the establishment of a protectorate relationship (*Protektoratsverhältnis*) between the League and Danzig, which has been created alongside of the semi-sovereign relationship of Danzig to Poland, and which is intended to prevent the semi-sovereign state from being pressed down by its suzerain into complete dependency as has happened so often in other cases.¹⁷

Professor Max Fleischmann, who prepared the twelfth edition of von Liszt's work on *International Law*, also counts Danzig among semi-sovereign states. Its semi-sovereignty is founded on its relation to the League of Nations, under whose protection it is placed.¹⁸

Another German publicist, Tigler, like Crusen writing in the *Wörterbuch des Völkerrechts und der Diplomatie*,¹⁹ calls Danzig a semi-sovereign state under the protectorate of Poland, on the ground that the conduct of Danzig's foreign relations had been placed in the hands of Poland. Professor Karl Strupp of the University of Frankfurt denies that Danzig is under the protectorate of either Poland or the League of Nations.²⁰ Professor A. Verdross considers Danzig a sovereign state.²¹ Hans Adolf Harder concludes in his study of Danzig, Poland, and the League of Nations that the Free City is undoubtedly a state.²²

Karl-Ludwig Schroeder states that Danzig, considered as a whole, can hardly be called a completely independent state.²³ Herbert Matschke, in his careful study of the bases of the international status of Danzig, arrives at the conclusion that the relations of Danzig to the League of Nations at the most can be called a protective relationship (*Schutzverhältnis*) *suu generis*, which is limited to the task of maintaining Danzig as a Free City in the way intended by the Treaty of Versailles. This aim requires certain limitations on the freedom of Danzig. Within these limits the League is obligated to respect and protect Danzig's freedom of movement and decision as an inde-

¹⁶ *Die Satzung des Volkerbundes* (2d ed., Berlin, 1924), pp. 121-22.

¹⁷ *Ibid.*, pp. 123-24.

¹⁸ F. von Liszt, *Das Völkerrecht* (12th ed., by M. Fleischmann, 1925), pp. 101-2.

¹⁹ Vol. I, p. 219.

²⁰ *Theorie und Praxis des Völkerrechts* (Berlin, 1925), p. 12.

²¹ In his *Die Verfassung der Völkerrechtsgemeinschaft* (Vienna and Berlin, 1926), quoted by Makowski, *Le Caractère Étatique*, p. 54; see also his article in *Recueil des Cours*, 1929, Vol. 30.

²² *Danzig, Polen und der Völkerbund* (Berlin, 1928), p. 25.

²³ *Die völkerrechtliche Stellung Danzigs*, *Zeitschrift für Völkerrecht* (Supplement to Vol. XIV, Breslau, 1927), p. 91.

pendent state and an independent member of the international legal community.²⁴

While this enumeration of the judgments of German publicists is not exhaustive, it suffices to indicate the great variety of legal conclusions arrived at.²⁵

TREATISES IN THE FRENCH LANGUAGE

French publicists and others writing in French also offer a variety of judgments in regard to the status of the Free City of Danzig.

Camille Piccioni maintains that the external sovereignty of Danzig is divided among three parties, viz., Poland, the League of Nations, and the Free City itself.²⁶ Danzig, which is not a sovereign state, is a kind of neutral state or territory on account of its protection by the League.²⁷

P. Fauchille states that the Treaty of Versailles placed Danzig under the protection of the League of Nations and submitted it at the same time to a sort of protectorate.²⁸ Geneviève Levèsque in her study of the international position of Danzig denies that the Free City is a state.²⁹ Charles de Lannoy finds that Danzig is a state under the protectorate of the League of Nations, in whose name Poland performs the functions of the protector.³⁰

Jan Hostie, Secretary General of the Central Commission for Navigation on the Rhine and Member of the Permanent Juridical Committee on Communications and Transit of the League of Nations, makes a detailed examination of the *Questions of Principle Regarding the International Status of Danzig*. He comes to the conclusion that "the relations between Poland and Danzig are exclu-

²⁴ Herbert Matschke, *Grundlagen*, p. 63

²⁵ Makowski, *Le Caractère Étatique . . .*, pp 52-55, also quotes from the following authors in the German language: E. Bumke, *Deutsche Juristen Zeitung*, Heft 23/24, 1919; J. Hatschek, *Volkerrecht als System rechtlich bedeutsamer Staatsakte*, 1923, pp. 30, 40-46; A. Hold-Ferneck, *Lehrbuch des Volkerrechts*, Vol. I, 1930, pp. 226-27; E. Isay, *Volkerrecht*, 1924, p. 83; I. L. Kunz, *Die Staatsverbindungen*, 1928, pp. 289-91, 298-301; Schatzel, *Deutsche Juristen Zeitung*, Nos. 3-4, 1920; E. Vanselow, *Volkerrecht*, 1931, pp. 66-67.

²⁶ "Le Statut International de Dantzig," *Revue Générale de Droit International Public*, 1921, p. 87

²⁷ *Ibid*, p. 96.

²⁸ *Traité de Droit International Public* (8th ed, 1922), Vol. I, Pt. I, pars. 187, 189.

²⁹ *La situation internationale de Dantzig* (Paris, 1924), p. 115

³⁰ "Le règlement de la question de Dantzig," *Revue de Droit International*, Series 3, Vol II, p. 436, according to Makowski, *Le Caractère Étatique . . .*, where other conclusions from ten writers in the French language are listed, pp. 50-52, including Georges Scelle and Robert Redslob.

sively based on international law . . . the Free City is a state in the international sense of the word, a sovereign state"³¹ The "sovereignty of the Free City is limited by the Convention of Paris which accords Poland a series of special rights while at the same time imposing on her certain obligations toward the Free City."³²

BRITISH WRITERS

Publications in the English tongue are no more harmonious in their conclusions than those already mentioned. Of British publicists, M. M. Lewis holds "that political institutions cannot always be made to fit in with preconceived legal theories," and that the international status of Danzig is *sui generis*.³³ J. L. Brierly writes in his *Law of Nations* that it is "difficult to regard Danzig as a true protectorate either of the League or of Poland" He calls Danzig "a good example of a state whose status can be described but not classified . . . it is a state whose independence has been limited, partly in the interests of Poland, and partly to enable the League to fulfill its duty of protection."³⁴

R. F. Roxburgh declares in the third edition of L. Oppenheim's *International Law* (1921) that Danzig under the Treaty of Versailles is "a Free City, and therefore an independent state. But it is only half-sovereign, because it is placed under the protection of the League of Nations, and its foreign relations are conducted by Poland."³⁵ The protectorate of the League over Danzig is "to be exercised by Poland, because Poland is to conduct the foreign relations of Danzig."³⁶

A. D. McNair, editor of the fourth edition (1926) of Oppenheim, calls the Free City a protectorate of the League of Nations, on behalf of which Poland undertakes the conduct of the foreign relations of Danzig, this "very important aspect of the protectorate."³⁷ He adds that the Free City "is an anomaly, and its classification among

³¹ *Questions de principe relatives au statut international de Dantzig* (Brussels, 1934; reprint from the *Revue de Droit international et de Législation comparée*, 1933, No. 4, and 1934, No. 1), p. 76

³² *Ibid.*, p. 78.

³³ "The Free City of Danzig," in *British Yearbook of International Law*, 1924, p. 100.

³⁴ *The Law of Nations* (1928), pp. 75-76

³⁵ L. Oppenheim, *International Law* (R. F. Roxburgh's 3d ed., London, 1921), pp. 167, 189.

³⁶ *Ibid.*, p. 167, n. 4.

³⁷ Oppenheim, *International Law* (A. D. McNair's 4th ed., London, 1926), pp. 189-90.

states under protectorate is perhaps more justified on the ground of convenience than of principle."³⁸

H. Lauterpacht, editor of the fifth edition of Oppenheim, expresses himself to a similar effect.³⁹

Jan F. D. Morrow calls the Free City a protectorate of Poland under supervision of the League of Nations.⁴⁰ On another occasion, he states: ". . . lawyers in general seem to be agreed that the relationship between Danzig and the League of Nations is not that of a protectorate—whatever else it may be. The layman will probably be content to accept the definition given by a German legal authority: 'The League of Nations relationship to Danzig is a protective relationship but not a protectorate.'"⁴¹

R. Yorke Hedges states in his *International Organization*⁴² that "some states defy any attempt at classification—e.g., India, Egypt, and Danzig." He lists Danzig as one of the four protectorates in Europe but adds: "The position of Danzig is anomalous, and it is perhaps only for convenience of classification that it can be described as a protectorate."⁴³

AMERICAN PUBLICISTS

With few exceptions American writers have given little detailed attention to the question of Danzig's statehood, being satisfied to refer to the Free City in some other connection. Quite frequently, they quote from Decisions of the High Commissioner or an Advisory Opinion of the World Court on a Danzig dispute, in sections of their works dealing with "Dependent Communities,"⁴⁴ "Treaties as International Law,"⁴⁵ "Restrictions on Certain States,"⁴⁶ or "Agreements between States."⁴⁷

³⁸ Oppenheim, *op. cit.*, 4th ed., p. 189, n. 4.

³⁹ *Ibid.*, 5th ed., edited by H. Lauterpacht, London, 1937, pp. 170-71.

⁴⁰ "The International Status of the Free City of Danzig," *British Yearbook of International Law*, 1937, p. 114.

⁴¹ *Peace Settlement*, p. 59, quoting Crusen in *Wörterbuch des Völkerrechts und der Diplomatie*, p. 138.

⁴² (London, 1935), p. 9.

⁴³ R. Yorke Hedges, *International Organization*, p. 11.

⁴⁴ Llewellyn Pfankuchen, *A Documentary Textbook in International Law* (New York, 1940), pp. 73-74.

⁴⁵ Herbert W. Briggs, *The Law of Nations. Cases, Documents and Notes* (New York, 1938), pp. 428-32.

⁴⁶ Manley O. Hudson, *Cases and Other Materials on International Law* (St. Paul, Minn., 1936), pp. 50-52.

⁴⁷ *Ibid.*, pp. 867-71.

Considerable attention is devoted to the international legal aspects of the Free City in studies made by Catherine Snell Crary (1934), Andrew B. Foster (1935), and the present writer (1933).⁴⁸

Mrs Catherine Snell Crary accepts much of the reasoning offered in the study by the present writer and states, after discussing the requisites of a state at international law .

The Free City of Danzig appears to possess these attributes of statehood. While the arguments of Levèsque and other writers, who deny that the Free City is a state, are strong ones, the writer feels, as Mason does, that it is difficult to ignore the documentary evidence, namely, the Constitution, the decisions of the High Commissioner, and the statement of the Permanent Court. If the members of the international circle have recognized Danzig as a State, as it appears they did in approving the Constitution, the fact that Poland disagrees does not alter the situation.⁴⁹

While confessing that Danzig is a state under international law, possessing the sovereign rights of a state, the restrictions in favor of Poland must at the same time be remembered and Danzig's unique position in the Society of Nations brought out.⁵⁰

Mr. Foster states: "The fact is that there exists nowhere in international law, past or present, a political entity analogous to Danzig, so that the debate turns largely upon academic definition."⁵¹ After consideration of the various factors involved, he adds .

With due allowance for the fact that there exists no simple formula in the language of international law which exactly describes the status of the Free City, it is nevertheless desirable to achieve a definition which will serve as basis and *modus operandi* for an understanding of her political and economic life. It is important that the definition should derive from the underlying realities of the situation, from the legal arrangements expressed in the treaties, and from the Decisions of the High Commissioners, whose reasoning, if it has not always been acceptable to international lawyers, nevertheless deals with actualities and determines the destinies of the Free City.⁵²

Mr. Foster, therefore, offers the following statement, "not as a contribution to international law but as a way of approach to the Danzig problem":⁵³

⁴⁸ For a detailed examination, see John Brown Mason, "Status of the Free City of Danzig under International Law," *Rocky Mountain Law Review*, February 1933, pp 85-99. See also Foster MS, "The Free City of Danzig," chapter iii, entitled, "The Problem of Sovereignty," and Crary, *Danzig*, section in chapter iv on "The Status of the Free City under International Law," pp. 89-102.

⁴⁹ Crary, *op. cit.*, p. 100

⁵⁰ *Ibid.*, p. 101.

⁵² *Ibid.*, p. 72.

⁵¹ Foster MS cited, p. 68.

⁵³ *Ibid.*

The Free City of Danzig is a State upon the sovereignty and independence of which are imposed "organic limitations which are an essential feature of its political structure."⁵⁴ These limitations are enjoined, on the one hand, in favor of the League of Nations, to which is entrusted the guarantee of Danzig's Constitution and the protection of her integrity, and, on the other hand, in favor of Poland, which enjoys certain rights in the territory of the Free City to ensure Polish access to the sea.⁵⁵

Mr. Foster adds that "Danzig is, in short, a Free City and not a part of Poland. Poland's rights in Danzig are extensive but they are nonetheless restricted; those powers which are not specifically conferred upon her by the treaties are reserved to the Free City."⁵⁶

A DETAILED EXAMINATION OF THE INTERNATIONAL LEGAL STATUS OF THE FREE CITY

While it has been denied by a number of writers that the Free City is a state under international law, e.g., by Professors Makowski and Ehrlich and the French writer, Geneviève Levèsque, it appears to the present writer to be established that Danzig possesses statehood in the international legal sense of the term, subject to certain limitations, by treaty agreement, in favor of Poland. This conclusion is based upon the following detailed examination of the various legal aspects of the question, especially the Decisions and dicta of the High Commissioners, statements in the Advisory Opinions of the World Court, and the Constitution of the Free City. The text of the Constitution was formally approved by the Council of the League of Nations and thereby assumed the character of an international legal document.

THE HIGH COMMISSIONER'S DECISION

The High Commissioner of the League had several occasions to take a stand on the question of the Free City's statehood.⁵⁷ The most

⁵⁴ Quotation from the Advisory Opinion of the World Court on the *Free City of Danzig and the International Labor Organization* Publications of the Permanent Court of International Justice, Series B, No. 18, p. 11.

⁵⁵ *Ibid.*, pp. 72-73

⁵⁶ *Ibid.*, p. 74

⁵⁷ Incidental to the consideration of other aspects of the Danzig situation, High Commissioner Haking made the following statements concerning the status of the Free City: "It appears to me, therefore, to be quite clear that the Convention [of Paris] was an International Treaty between the two States . . ." (Decision of December 6, 1921, *Decisions, 1921*, p. 46) "Danzig, by the Treaty of Versailles, has been constituted a Free and independent State, and, although her territories are very small, she enjoys certain liberties by her political independence, and must also put up with certain disadvantages inherent to the position in which she has been placed by the Allied and Associated Powers" (Decision of December 18, 1921, *Decisions, 1921*, p. 77) ". . . the Government of Danzig, as an independent State. . . ." (Decision of November 28, 1922, *Decisions, 1922*, p. 47).

important one was the Decision of November 7, 1924, on the question of ratification of the Danzig-Polish Railway Tariff Agreement.

Poland had refused to ratify this treaty while informing the Danzig government that it had confirmed (*bestätigt*) it. Danzig, in turn, asked for a Decision by the High Commissioner to the effect that treaties between Poland and Danzig are treaties in the international sense, which require for their execution the ratification customary in international relations.⁵⁸ High Commissioner MacDonnell observed:

The real point at issue between the two parties is whether Danzig viz-à-viz Poland is an independent state from the point of view of making treaties or agreements and entitled to be treated as such, or, as the Polish Government believes, falls so far short of what is required of a Power with which treaties are made that the usual procedure is not required to be applied⁵⁹

I know of no grounds for refusing to recognize the Free City as a State. The first article of the Constitution of the Free City, drawn up for the Free City in agreement with the Allies' High Commissioner [later the High Commissioner of the League of Nations] and approved by the League is to the following effect: "The City of Danzig and the territory attached thereto shall form a Free State under the name of the 'Free City of Danzig'."⁶⁰

The High Commissioner continued:

If a State is a Free State, as Danzig is, it is first of all a state and though the Free City could not call itself the Free State of Danzig, since it has received another title, namely the "Free State of Danzig," it can expect to have the character recognized with which it was endowed at its creation. I do not know what other word than "state" could be used to describe the Free City of Danzig more generically.⁶¹

Much more important than these statements of the line of his reasoning was the subsequent decision of the High Commissioner:

. . . Danzig is a State in the International sense of the word and is entitled to the use of expressions denoting that fact.⁶²

On appeal by Poland the League Council substituted its Resolution of March 13, 1925, for the High Commissioner's Decision but substantially confirmed the findings of the High Commissioner in regard to the ratification of treaties between the Free City and Po-

⁵⁸ *Decisions, 1924*, pp 58, 60.

⁵⁹ *Ibid.*, p 63.

⁶⁰ *Ibid.*, p. 68

⁶¹ *Ibid.*, p 69.

⁶² *Ibid.*, p. 70

land. The Council sidestepped the direct question of Danzig's statehood, stating merely:

. . . the expression "State" is used in such a general sense and is applied under such different conditions that the Council will not consider it necessary to examine the meaning of this term and its application to Danzig. The international status of the Free City is defined by the Treaty of Versailles.⁶³

THE OPINION OF A LEAGUE COMMITTEE OF LEGAL EXPERTS

On a later occasion a special Committee of legal experts appointed by the League submitted to the League Council a Report dated December 8, 1927, in which it observed in regard to the status of the Westerplatte depot:

The sovereignty of Danzig over this territory remains accordingly unimpaired. Poland occupies the position of another foreign Government receiving a concession on the territory of another State for a specific purpose. By obtaining the concession to use the Westerplatte, Poland recognized the sovereignty of Danzig to the extent provided for in the agreement. Danzig, on the other hand, by agreeing to put the site in question at the disposal of Poland for unloading munitions, was debarred from raising any objection to the use of the site for this purpose On the other hand, account must also be taken of the fact that Poland has been granted the Westerplatte site, not merely for a private or economic purpose but for a purpose connected with the essential needs of the existence of the State, and that, in the Treaty which set up the Free City, Danzig's sovereignty was restricted to meet these vital requirements of the Polish State.

The Polish Government must therefore be regarded as possessing powers of a public character over the Westerplatte, subject, of course, to the sovereign rights of the Free City.⁶⁴

The Report was not acted upon by the Council, which, a few days later, adopted a Resolution directing the governments of Poland and Danzig to negotiate a solution of the problem, under the guidance of the High Commissioner.⁶⁵ The consequent Provisional Agreement of August 4, 1928, did not violate the Free City's rights as an international state.⁶⁶

THE VIEW OF THE WORLD COURT

The World Court, when referring to states not members of the League of Nations, has repeatedly referred to Danzig as one of this group.

⁶³ *Decisions, 1924, Official Journal*, April 1925, pp. 468, 566

⁶⁴ *Ibid.*, February 1928, pp. 161-67.

⁶⁵ *Ibid.*, pp. 181-82.

⁶⁶ See above, pp. 207-8.

For example, on June 28, 1922, the Court decided to communicate the Resolution of the Council of the League of May 17, 1922, concerning the conditions upon which the World Court shall be open to a state not a member of the League or mentioned in the Annex to the Covenant of the League, to "firstly, States not Members of the League but mentioned in the Annex to the Covenant, and secondly to the following States: . . . Georgia, Germany, Iceland, . . . Liechtenstein, San Marino, Mexico, Monaco, Poland (for transmission to the Free City of Danzig) and Turkey. The Registrar, in a letter dated July 1, 1922, informed the Secretary-General accordingly . . . The complete list is, therefore, as follows: Afghanistan; . . . Poland (for transmission to the Free City of Danzig); . . . United States of America."⁶⁷

In the *Fifth Annual Report* of the Court (1929), the Registrar of the Court, M. A. Hammarskjöld, stated: "The States neither Members of the League of Nations nor mentioned in the Annex to the Covenant, which have been notified by the Court of the Resolution of the Council to the effect that they are entitled to appear before it, are now as follows: Afghanistan, Free City of Danzig (through the intermediary of Poland),. . . ."⁶⁸

PERTINENT STATEMENTS IN ADVISORY OPINIONS

The Court has referred to the independence or statehood of Danzig in three of its Advisory Opinions.

In the Advisory Opinion of August 26, 1930, on *Danzig and the International Labor Organization* the Court observed:

. . . the Treaty of Versailles is the source of the rights conferred on Poland in accordance with Article 104, . . . so far as these rights involve a limitation on the independence of the Free City, they constitute organic limitations which are an essential feature of its political structure.⁶⁹

⁶⁷ Publications of the Permanent Court of International Justice. Series E, No. 1 (1925), pp. 142-45.

During the preliminary session the Court "decided that it would be well to have the procedure for communications which it might have to send to the various Governments definitely laid down, so that a communication transmitted to a Government in the manner indicated by that Government could be regarded as having been duly effected." The Registrar, in a letter of March 27, 1922, requested the Secretary-General of the League of Nations to ask the governments of states members of the League to state their wishes in regard to the procedure to be adopted. He also wrote direct to states not members of the League for similar information. According to the replies received, including that from the Polish government, "the channels to be used for direct communications emanating from the Court are as follows: . . . Danzig (The Polish Minister at the Hague)" (*Ibid.*, No. 6 (1930); pp. 173-74).

⁶⁸ *Ibid.*, No. 5 (1929), p. 150.

⁶⁹ Publications of the Permanent Court of International Justice, Series B, No. 18, p. 11.

In the Advisory Opinion on *Polish War Vessels in the Port of Danzig* of December 11, 1931, the Court stated: "As only one of *these States*,⁷⁰ namely, Poland, had on the Bench a judge of its nationality, the Senate of the Free City of Danzig availed itself of its right, under Article 71 of the Rules of the Court, to choose a judge *ad hoc* to sit in the case."⁷¹

In the course of this Advisory Opinion, the Court made the following statement which touches upon the question of Danzig's statehood:

The fact that Poland claims special rights and privileges for her war vessels in the port of Danzig, renders it necessary to find some juridical basis for the claim. The port of Danzig is not Polish territory, and therefore the rights claimed by Poland would be exercised in derogation of the rights of the Free City. Such rights must therefore be established on a clear basis.⁷²

In its consequent opinion the Court held that no such rights existed.⁷³

In the Advisory Opinion of February 4, 1932, on *Treatment of Polish Nationals . . . in Danzig*, the Court stated:

In its [the Court's] opinion, the fact that the legal status of Danzig is *sui generis* does not authorize it [the Polish government] to depart from the ordinary rules governing relations *between States* and to establish new rules for the relations between Poland and Danzig. *The general principles of international law apply to Danzig* subject, however, to the treaty provisions binding upon the Free City and to decisions taken by the organs of the League under these provisions. The peculiar character of the Danzig Constitution, as has been said above, affects only the relations between Danzig and the League. A violation or an erroneous application of the Constitution by Danzig is, therefore, so far as international relations are concerned, a matter solely between the League, as guarantor, and Danzig. *With regard to Poland, the Danzig Constitution, despite its peculiarities, is and remains the Constitution of a foreign State.*

. . . it results that *the question of the treatment of Polish nationals or other persons of Polish origin or speech must be settled exclusively on*

⁷⁰ Italics by the present writer

⁷¹ Publications of the Permanent Court of International Justice, Series A/B, No. 43, p. 131. The judge chosen by Danzig, the late Professor Viktor Bruns, had been one of the two *ad hoc* judges participating in the Advisory Opinion on the *Jurisdiction of the Courts of Danzig*. The other was Professor Ludwik Ehrlich, who denied as late as 1932 that Danzig was either a state or a person under international law (see above).

⁷² *Ibid.*, p. 142.

⁷³ *Ibid.*, p. 148.

*the bases of the rules of international law and the treaty provisions in force between Poland and Danzig."*⁷⁴

These official communications of the Court and the statements quoted from its Advisory Opinions are interesting and valuable documents. They do not, of course, establish Danzig's international statehood as a *res adjudicata* on the part of the Court, which has had no occasion to concern itself directly with the question.

THE RELATION OF THE DANZIG CONSTITUTION TO THE STATEHOOD OF THE FREE CITY

We shall now proceed to examine the question of Danzig's statehood independently of the line of arguments used by various publicists, the conclusions expressed by the High Commissioner, or the reasoning of the Permanent Court.

In this connection the Constitution of the Free City is a most important document. It is not only a basic document in the constitutional law of Danzig but, because it was worked out in agreement with the High Commissioner of the League of Nations and was in its final form formally approved by the Council of the League, it has also the character of an international legal document. The League documents reveal clearly that careful attention was given by the Council to various provisions of the Constitution, and we appear safe in concluding that its provisions expressed the opinion and intentions of the States members of the Council of the League. In the Constitution of Danzig we read:

Article 1: The City of Danzig and the territory attached thereto shall form a Free State under the name of the "Free City of Danzig"

Article 2: "The arms of the State shall be The State flag and the commercial flag shall be"

Article 3: "The Sovereign Power in the State shall be vested in the people."⁷⁵

Article 45f: ". . . . the conclusion of treaties"⁷⁶ with other states;"

⁷⁴ Series A/B, No. 44, pp. 23-24. Italics by the present writer.

⁷⁵ I e., not in any outside power, which would be the case if Danzig were only an autonomous part of some state.

⁷⁶ In the Treaty of Paris of November 9, 1920, as registered with the Secretariat of the League of Nations under No. 153 on September 25, 1921, between Danzig and Poland, the words "High Contracting Parties" which are commonly used in treaties between equal states were avoided. In their place appear the words "Poland and the Free City of Danzig" in articles 35 and 40. On May 14, 1930, the government of Danzig pointed out these facts to the Polish diplomatic representative in Danzig and requested that the Secretariat of the League of Nations be asked to correct these "mistakes" and that the correction be made public. On May 16, 1931, the Polish Delegate to the League of Nations, M. F. Sokal, requested the Secretary-

Article 67: "The territory of the State shall be divided into"

Article 69: "The City of Danzig is an independent commune of the State"

Article 72: "The nationality⁷⁷ of the State shall be acquired and forfeited"

The Council subjected the text of the Constitution to a painstaking scrutiny, insisted on the insertion of several amendments, and finally gave formal approval to the Constitution and decided to place it under the guaranty of the League.⁷⁸

We may therefore conclude that by this action the States members of the Council of the League recognized the Free City of Danzig as possessing the status for which its Constitution provided, i.e., that of a state under international law.⁷⁹

General of the League, "acting on instructions" received from his government, to "make the following corrections" in the French and English texts of the Treaty of Paris, registered with the Secretariat under No. 153 on September 25, 1921: "(1) In Article 35, instead of ' . . . Poland or the Free City of Danzig' . . . in the English text, read ' . . . either of the High Contracting Parties . . . ' (2) Last clause: instead of ' . . . Poland and the Free City of Danzig' in the English text, read ' . . . each of the High Contracting Parties'." Cf. League of Nations, *Treaty Series*, Vol. CVII (1930-31), No. 153, pp. 459-60. Cf. also Loening, *op. cit. supra* n. 37 at pp. 29-31 and Draeger, *Volkerrechtliche Probleme in Danzig*, a reprint of a paper read at the German Section of the International Law Association on March 18, 1931, pp. 51-52.

⁷⁷ For the text of the Law of May 30, 1922, Concerning the Acquisition and Loss of Danzig Nationality, in English translation, cf. *British Parliamentary Papers*, Miscel. No. 2 (1927) Cmd. 2852, p. 13; also Richard W. Flourney, Jr., and Manley O. Hudson, *A Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties* (Oxford University Press, 1929), pp. 209-12.

⁷⁸ See above, pp. 64 and 67-69.

⁷⁹ According to C. C. Hyde, *International Law as Interpreted by the United States* (Boston, 1922), Vol. I, pp. 16-17, par. 7, the "requisites of a State at International Law" are: there must be (1) a people; (2) a fixed territory which the inhabitants occupy; (3) an "organized government expressive of the sovereign will within the territory, and exercising in fact supremacy therein"; (4) there "must be an assertion of right through governmental agencies to enter into relations with the outside world. The exercise of this right need not be free from external restraint. Independence is not essential . . . It is the possession and use of the right to enter into foreign relations, whether with or without restriction, which distinguishes States of international law from the larger number of political entities given that name and which are wholly lacking in such a privilege. It illustrates the difference between Ecuador and Alaska, and between Cuba and South Carolina"; (5) the inhabitants of the territory must have a certain degree of civilization. Hyde cites the following authorities: J. Westlake, *International Law* (2d ed.), Vol. I, 21: "It is not necessary for a State to be independent in order to be a State of international law"; J. B. Moore, *Digest of International Law*, p. 18, citing Rivier, *Principes de Droit des Gens*, Vol. I, 52: "As international law deals with actual conditions, it recognizes the fact that there are states not in all respects independent that maintain international relations, to a greater or less extent, according to the degree

The Council did not act without an idea of the implications of their action. The Polish delegation to the Council of the League had been most active in opposing the approval by the Council of certain provisions of the Constitution of Danzig. M. Paderewski himself had argued before the Council:

The definition in legal terms of the political status of Danzig ought to make it clear that the Free City had a right, not to "sovereignty," as Article 3 of the Draft Constitution appears to suggest, but simply to "autonomy." This point was clearly emphasized in the wording of the letter, which was sent on June 16, 1919, by the Principal Allied and Associated Powers to the German delegation to the Peace Conference, and which was quoted in Viscount Ishii's report: "Danzig will be constituted as a Free City; its inhabitants will be autonomous." This point of view was confirmed by Article 104 of the Treaty of Versailles.⁸⁰

In a letter of the Polish delegation to the League of Nations, of February 20, 1921, M. Askenazy, its head, wrote: "The expression in question [The City of Danzig shall form a Free State under the name of the Free City of Danzig] . . . implies the idea of full sovereign rights—an idea which does not correspond either to the actual or juridical position of Danzig It is a legal novelty calculated to give rise to the most regrettable misunderstandings."⁸¹

The Polish delegates to the Council of the League who were anxious to have Danzig denied the status of a state were given a hearing, but their arguments were not accepted. It is interesting to note from their own pleadings that in their opinion the provision of Article 1 of the Constitution "implies the idea of full sovereign rights." For that reason they wished the wording of the article changed, but, as we see from the final text of the Constitution, as approved by the League Council, they were unsuccessful in their efforts.

THE RESTRICTIONS ON THE INDEPENDENCE OF THE FREE CITY

The independence of the Free City was restricted in several ways, but her character as a state was not thereby destroyed.

The Polish customs laws were ipso facto valid on Danzig terri-

of their dependence." Hyde himself adds in n. 4 on p. 16: "If independence be regarded as a necessary possession of a State of international law, the existing practice of treating as persons or subjects of that law various types of so-called dependent States is incapable of explanation."

⁸⁰ Council meeting of November 14, 1920, League of Nations, *Council Minutes*, 11th Session, pp. 2-3.

⁸¹ League of Nations, *Council Minutes* (1921), 12th Session, p. 138.

tory but on the basis of a treaty between Danzig and Poland.⁸² Similar instances are the Customs Union of Belgium and Luxembourg⁸³ and that of Switzerland and Liechtenstein.⁸⁴ There is even on record the case of a foreign (Netherlands) law valid on German territory—for the “Dominialgrube,” a mine situated on German territory near the Dutch border, on the basis of Article 19 of the Prussian-Dutch border treaty of June 26, 1816.⁸⁵

The fact that the Constitution of Danzig was guaranteed by the League of Nations and that she could not change it without the consent of the League did not change Danzig’s character as a state; for Danzig gave herself a Constitution, under the supervision of the League, and by virtue of this Constitution the Free City possessed the highest state authority over its territory and its inhabitants, unlimited in principle and deduced from no higher authority.

The limitations on the Free City of Danzig in the field of her foreign relations were important, but they did not deprive Danzig of her sovereignty any more than certain corresponding limitations on the conduct of Poland’s foreign affairs had that effect on the sovereignty of Poland.⁸⁶

Danzig could not pursue a foreign policy opposed to the important interests of Poland.⁸⁷ The claim, however, that a certain foreign

⁸² Convention of Paris, Articles 13–18, in consequence of Article 104, 1, of the Treaty of Versailles.

⁸³ League of Nations, *Treaty Series* (1922), Vol. 9, p. 225, Article 4 of the treaty of July 25, 1921.

⁸⁴ *Ibid.*, Vol. 21 (1923–24), p. 243, Article 5 of the treaty of March 29, 1923

⁸⁵ See Decision of the Supreme Court of Cologne, 1914, reprinted in Edwin D. Dickinson, *A Selection of Cases and Other Readings on the Law of Nations* (New York, 1929), pp. 396–99; also (unsigned), *Zeitschrift für Völkerrecht*, VIII, 437 ff

⁸⁶ The Permanent Court said in its Advisory Opinion on the *Free City of Danzig and International Labor Organization* of August 26, 1930:

“It is now common ground between Poland and the Free City that the rights of Poland as regards the conduct of the foreign relations of the Free City are not absolute. The Polish government is not entitled to impose a policy on the Free City nor to take any step in connection with the foreign relations of the Free City, against its will.

“On the other hand, the Free City cannot call upon Poland to take any step in connection with the foreign relations of the Free City which are opposed to her own policy

“The result is, that, as regards the foreign relations of the Free City, neither Poland nor the Free City are completely masters of the situation. The Free City is entitled to care for her own interests and to see that nothing is done which is prejudicial to them. Poland is entitled to care for her own interests and to refuse to take any action which would be prejudicial to them.”

⁸⁷ Decision of December 17, 1921 (*Decisions 1921*, pp. 70–73). This Decision is reprinted in Judge Hudson’s *Cases*, pp. 50–52, in the section of the book headed “Restrictions on Certain States.”

policy which Danzig wished to pursue would be opposed to the important interests of Poland could be submitted for decision to the High Commissioner and, on appeal, to the Council of the League, and might be overruled by either or both of these League organs. In such a case, Poland was not free to decide for herself what constituted an important interest in her own foreign relations; she was compelled, in fact, by a non-Polish, international, political organ, viz., the League of Nations, to conduct the foreign relations of Danzig in a way which she, Poland, judged to be opposed to her own important interests.

Any Polish treaty or international agreement which, in the opinion of the League Council, was inconsistent with the provisions of the Treaty of Paris or with the status of the Free City might be vetoed by the High Commissioner of the League "in so far as it applies to the Free City of Danzig" ("où il s'appliquerait à la Ville Libre de Dantzig").⁸⁸

This provision limited the right of Poland to use her treaty-making power in a way that would be opposed either to the Convention of Paris between Poland and Danzig, which Poland, therefore, cannot simply denounce, or to the legal position of Danzig and the rights of Danzig resulting from it which may be against the important interests of Poland as Poland sees it.

We conclude, therefore, that the Free City of Danzig was a state at international law and that it was in principle vested with the sovereign rights of a state, although these had been restricted by treaty agreements in favor of Poland.

⁸⁸ Cf. Article 6 of the Convention of Paris. "Poland shall conclude no treaty or international agreement affecting the Free City without previous consultation with the Free City; the High Commissioner of the League of Nations shall be informed of the result of this consultation. The High Commissioner shall in all cases have the right to veto any treaty or international agreement, in so far as it applies to the Free City of Danzig, which, in the opinion of the Council of the League of Nations, is inconsistent with the provisions of the present Treaty or with the status of the Free City."

THE STATUS OF POLISH OFFICIALS AND GOVERNMENT PROPERTY IN DANZIG

In connection with the various rights possessed by Poland in the Free City of Danzig, a large number of Polish officials, employees, and workmen were stationed there¹ and a rather considerable amount of property² was owned and managed by the Warsaw government in that territory. The situation readily lent itself to disputes when Poland demanded extraterritorial rights for Polish authorities, officials, and employees, for government property, and even for ships. Danzig, exercising her prerogatives as a state, rejected such claims. Both governments submitted the cases to the High Commissioner for settlement.

VARIOUS POLISH OFFICIALS IN DANZIG

The Polish government agencies and officials stationed in Danzig were of various types. There were, first of all, the Polish diplomatic representative and his staff.³ Polish inspectors were attached to the Danzig customs administration.⁴ The broad-gauged railways,⁵ of course, were owned and managed by the Polish state, as was the special postal, telegraph, and telephone system between the port and Poland.⁶ In addition, there were other Polish officials, ranging from passport officials to foreign trade officers, meteorological observers, radio technicians, and certain military personnel.⁷

¹ Foster MS, "The Free City of Danzig," p. 205, n. 3, states that by December 1921 the Polish government had placed about one thousand officials and employees in the Free City. He remarks (p. 206, n.) that "the posts of the various Polish agencies in the Free City are said to be regarded as the plums of the Polish civil service. Larger salaries are paid because the cost of living is higher in Danzig than in Poland; while the Free City is, in any case, a very pleasant place to live in. It has even been claimed by certain Danzigers that the Polish officials create special difficulties in the performance of their functions so that the importance of their work may be enhanced and the permanence of their jobs secured. The result naturally does not make for good relations between Danzig and Poland."

² See above, p. 90

³ See above, pp. 103-4.

⁴ See above, pp. 169-71

⁵ See above, pp. 139-41.

⁶ See above, p. 154 ff.

⁷ "At the request of the Free City of Danzig the Polish government declares that the existence of the section of the Staff of the diplomatic representative of the Polish government stationed at Danzig described as 'military' is made necessary

The Senate claimed in December 1921 that Poland had the right to station the following Polish officials and employees in the Free City:

a) Polish ship and registration departments as branch services of the Polish Representation (Article 8 of the Convention of Paris and Article 173 of the Warsaw Agreement)

b) Polish Customs Inspectors (Article 14 of the Convention and Articles 200 to 203 of the Warsaw Agreement)

c) Polish Railway Administration (Articles 21 and 22 of the Convention)

d) Polish Commissioner to the Danzig foreign trade department (Article 218 of the Warsaw Agreement)

e) The Polish Post and Telegraph Administration in the Port of Danzig (Article 29 of the Convention and Article 149 and following of the Warsaw Agreement).⁸

The Free City further maintained that the following Polish authorities and agencies actually had been established in Danzig at the same date:⁹

LIST OF POLISH AUTHORITIES NOW IN DANZIG AND THE SUBURBS¹⁰

1. Diplomatic Representation of the Republic of Poland
2. Authority for State Lands, Agriculture and Forests of the Polish Republic
3. Polish Pass Office
4. Office for Military Affairs
5. Polish Telegraphic Agency (P.A.T.)
6. State Public Office for Purchase of Most Necessary Articles and Sale of Fish (P.U.Z.A.P.P.)
7. Office for Finance and Customs
8. Polish Foreign Trade Office
9. Branch Office of the Polish Public Office for Export of Wood
10. Branch Office of the Polish State Naphtha Department

by the fact that Polish war material is imported via Danzig, and by the control which has to be maintained over Polish nationals in the matter of conscription. The Free City realizes that this section is in no way to be considered as constituting a military organization of any kind" Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 330-32)

⁸ Decision of December 6, 1921, Appendix A (*Decisions, 1921*, pp. 56-57). [Crusen, *Der Pariser Vertrag*, pp. 31-32, 239.]

⁹ *Ibid.*, p. 57 "The Danzig objection that there are more Polish officials and organizations in the territory of the Free City than are contemplated in the Treaty of Versailles or the Convention of 9th November 1920 [Paris] is a question which does not come within the scope of this Decision which is limited to the legal position of Polish property, administration and personnel in the territory of the Free City . . ." (*ibid.*, pp. 52-63).

¹⁰ *Ibid.*, Appendix B, p. 59

11. Polish Supply Department
12. Polish Re-emigration Camp
13. Polish Postal Administration
14. Polish-American Postal Forwarding Department
15. Polish Post Office, (forwarding) Danzig-Neufahrwasser
16. Polish Administration Department
17. Polish Railway Administration for Construction Inspection
18. Polish Marine Administration for Construction Inspection
19. Polish Railway Management
20. Polish Residence of Director Railway Lines
21. Polish Marine Wireless Station
22. Polish Marine Meteorological Observatory
23. Office for Polish State Shipping
24. Polish Administration of Property, etc. Military Representation.

Besides, five members of the Harbor Board were official representatives of Poland.¹¹

THE STATUS OF THE POLISH OFFICIALS

The status of the Diplomatic Representative of Poland and of the members of the Harbor Board was simple to determine, since, without question, they were entitled to diplomatic immunities and privileges.¹² The determination of the status of the other officials of Poland and of the property connected with their offices and agencies presented more difficulties.

The process of working out the details began with the High Commissioner's Decision of December 6, 1921, requested by both parties, on the legal position of the Polish authorities, offices, and employees, as well as the status of Polish government property and Polish ships.

The main point in dispute was that Poland claimed certain extra-territorial rights for Polish property, personnel, and ships in the territory of the Free City. She argued that since certain state property and certain functions of the Danzig state had been transferred to Poland by the Treaties of Versailles and Paris, "the only logical conclusion is that this property, including Polish ships, and this administration, including Polish personnel, must be excluded from the judicial and executive authority of the Government of the Free City."¹³ She went to the extent of claiming:

"II. That all regulations of the Polish authorities, within their competence, must be respected equally with those of the Danzig authorities,

¹¹ See above, pp 119-23. [See also Crusen, *Der Pariser Vertrag*, pp. 33, 42-43.]

¹² See above, p. 123.

¹³ *Decisions, 1921*, p. 44-45. [Crusen, p. 239.]

that is to say they must be obligatory for the citizens, authorities and tribunals of the Free City."

and

"III. That the Polish Government is responsible for any misdemeanours and, with certain exceptions, for any crimes committed by their officials or employees, and that the Danzig Government has no authority over them."¹⁴

THE HIGH COMMISSIONER'S DECISION, 1921

The High Commissioner's decision held against the Polish contention as being unsupported by the treaties.¹⁵ He also stated that if the rights claimed by Poland were accepted in their totality, Danzig "can no longer be called a Free City" and that

... the confusion that would arise within the territory of the Free City, the constant friction of officials small and great, the antipathy created by such a large number of Polish officials within the territory of the Free City with extra-territorial rights, the suspicion that would exist between the two States regarding the treatment of these officials, etc., could only lead to interminable disputes, and would be as harmful for Poland as for Danzig.¹⁶

The High Commissioner, therefore, decided "that all persons of Polish nationality entering the Territory of the Free City of Danzig or her territorial waters . . . [being already protected under the minority provisions of Article 33 of the Convention of Paris] must be subject to the Laws and judiciary system of the Free City," except the Diplomatic Representative, and subject to any agreement arrived at by the two governments in the future.¹⁷

THE AGREEMENT OF 1922

A consequent Agreement of May 17, 1922, between Danzig and Poland, provided that "the Polish authorities, acting within their special sphere of competence, and Polish officials in the territory of the Free City, shall receive the same treatment [from the Danzig authorities] as Danzig authorities and officials performing similar duties" (Article III). Polish officials were to be responsible in regard to the performance of their duties only to their Polish superiors and were not subordinate to the Danzig authorities (Article IV); and, in case one of them was arrested by the Danzig authorities, one of the higher Polish officials was to be notified. The Polish government archives and offices are inviolable. The Polish Diplomatic Rep-

¹⁴ *Decisions, 1921*, p. 45.

¹⁵ *Ibid.*, p. 52. [Cruscn, p. 239.]

¹⁶ *Decisions, 1921*, p. 53.

¹⁷ *Ibid.*, p. 54.

representative was to appoint his own staff for the purposes laid down in the treaties. He was to submit to the Danzig government a list of the names and positions of his staff, diplomatic, administrative, and subordinate. His diplomatic staff might include the heads of the Polish Postal and Telegraph Service and the head of the Polish Customs Administration at Danzig. Any of his employees who did not possess diplomatic status were to be treated in accordance with Articles III and IV, above.¹⁸

THE STAFF OF THE DIPLOMATIC REPRESENTATIVE

Danzig and Poland had further difficulties in agreeing on the number of members of the staff of the Polish Diplomatic Representative who were to enjoy diplomatic privileges and immunities. A temporary arrangement concluded on February 1, 1923, provided for exemption from taxation for Polish citizens belonging to the staff of the Polish Diplomatic Representative, up to a number not to exceed 100. The Diplomatic Representative kept the right, under this agreement, to request before the High Commissioner or the League Council that a larger number should enjoy these privileges, while the Danzig Senate considered the number of one hundred to be "much too high" and accepted it only provisionally.¹⁹

When Poland asked the High Commissioner for an interpretation of the pertinent Article (VI) of the Agreement of May 17, 1922, he decided on May 23, 1923, that the personnel of the Polish Diplomatic Representative which was entitled to diplomatic status "is to be limited to officials employed strictly on diplomatic duties and shall be composed, in addition to the Diplomatic Representative himself, of a number of officials not exceeding six," plus the heads of the Polish Postal and Telegraph Service and the Polish Customs Administration at Danzig.²⁰

However, later that same year Danzig and Poland agreed on much more liberal terms in favor of Poland, namely:

"The number of persons, not Danzig nationals, appointed by the Polish diplomatic representative as members of his staff and possessing diplomatic character, shall be fixed at sixty. One-third of this number shall be higher officials, one-third intermediate officials and the remainder subordinate personnel. In classifying these persons, regard may also be

¹⁸ *Zusammenstellung, 1920-1923*, pp. 212-14. [Crusen, pp. 33-34.]

¹⁹ *Zusammenstellung*, pp. 259-60

²⁰ *Decisions, 1923*, p. 22. He decided further that all other Polish staff employed in Danzig by the Polish government shall be treated as provided in Articles III and IV of the Agreement of May 17, 1922. [Crusen, p. 34.]

had to the remuneration they receive. All of these sixty officials shall enjoy, within the territory of the Free City of Danzig, the privileges to which, in accordance with international usage, persons possessing diplomatic character are entitled."²¹

Sixty persons enjoying diplomatic immunity on the staff of the Polish Diplomatic Representative was, of course, a much larger number than is ordinarily granted such privileges and very considerably higher than the number allotted by the High Commissioner's Decision

THE COMPETENCE OF THE DIPLOMATIC REPRESENTATIVE

In 1922 Danzig asked the High Commissioner for a decision regarding the competence of the Polish Diplomatic Representative in matters other than those connected with intermediary correspondence between the Polish and the Danzig governments, and especially his power to welcome foreign fleets in the harbor of Danzig on behalf of his government.

The Senate claimed that the Diplomatic Representative served as an intermediary between the Polish and the Danzig governments and that his competence was limited to this function. Poland argued that his competence was not limited by Article I of the Convention of Paris and that there was no doubt that the Polish government had the right to use its "Commissioner General" in Danzig, "as its representative in all respects and in all questions which deal with the exercise of the rights accorded to Poland" in the Free City. In particular, she claimed that in the conduct of Danzig's foreign relations he had the right to welcome foreign fleets in Danzig waterways and on Danzig soil.²²

THE HIGH COMMISSIONER'S DECISION, 1922

The High Commissioner reasoned that "both the letter and spirit of Article I of the Convention, especially when taken with the remaining Articles of this Convention, can have only one possible interpretation, namely, that the Diplomatic Representative of the Polish Government at Danzig is intended to be the channel of communication between the two Governments of Poland and Danzig. That is to say he acts as the spokesman of his Government in its dealings with the Danzig Government, and he conveys to his own Government the communications he receives from the Danzig Government with such

²¹ Agreement of December 6, 1923 (*Zusammenstellung, 1920-1923*, p. 363) Translation from the German by the present writer. [Crusen, pp. 34-36.]

²² Decision of August 23, 1922 (*Decisions, 1922*, pp. 24, 25, 26, 28) [Crusen, pp. 26-30.]

reports, explanations, etc., as he thinks fit. There is nothing I can find in any Article of the Convention which, either in the letter or in the spirit, gives any powers to the Diplomatic Representative of the Polish Government in Danzig, other than that clearly expressed in Article I."²³ He added that the Harbor Board, and not the Polish government, exercises the right of control to insure to Poland the free use of the port of Danzig for her exports and imports and that "this idea appears to contradict the Polish claim that she can receive foreign fleets in the Harbour of Danzig in the same manner as if the fleets were visiting Poland in one of her own Ports."²⁴ Nor was the High Commissioner able to accept the Polish claim that Poland was entitled to welcome foreign fleets in Danzig because she conducted Danzig's foreign relations.²⁵

The High Commissioner therefore decided:

(I) That the competence of the Diplomatic Representative of the Polish Government stationed at Danzig is limited as described in Article 1 of the Convention of 9.11.1920 [of Paris] and that no other Article either of the Treaty of Versailles or of the Convention gives him any further powers.

(II) That the Polish Government has not the right either through its Diplomatic Representative at Danzig, or in any other way, to welcome officially, in Danzig waters or on Danzig soil, a foreign fleet which visits the Free City.²⁶

THE AGREEMENT, 1923

The League Council did not have to deal with Poland's appeal against this decision as she and Danzig came to an Agreement in the matter, dated January 30, 1923. It provided that the competence of the Diplomatic Representative was limited as described in Article I of the Convention of Paris. He was free, however, to establish any relations either he or his government desired with other Polish organizations in Danzig such as the postal service, the railway administration, etc. These relations were described as purely of a domestic nature.²⁷

In the case of a visit to Danzig by a foreign fleet, the commander of the ship would pay the first official visit to the Senate of the Free City, which would welcome him on behalf of the Free City. In "consideration of the rights which are accorded to Poland by the Treaty of Versailles, the Polish Diplomatic Representative at Danzig shall

²³ *Decisions, 1922*, p. 26.

²⁴ *Ibid.*, p. 27

²⁵ *Ibid.*, p. 28.

²⁶ *Ibid* [Crusen, *Der Pariser Vertrag*, pp. 26-30.]

²⁷ *Zusammenstellung, 1920-1923*, p. 254.

have the right to be paid an official visit by the Commander of the warship on behalf of his Government and to salute the ship in question either on board ship or at his official residence."²⁸ It was also understood that Poland would conduct the diplomatic correspondence in connection with the official visits of foreign warships to Danzig.²⁹

Two years later it was agreed among the various parties concerned that the official visits to be paid in the territory of the Free City should come in the following order: the President of the Senate of the Free City, the High Commissioner of the League of Nations, the Polish Diplomatic Representative, the President of the Harbor Board.³⁰

The High Commissioner further issued a regulation at the request of the two disagreeing parties that in the case of a foreign naval visit the Senate was entitled to a salute of 21 guns, the High Commissioner to one of 19 guns, and the Polish Diplomatic Representative to one of 17 guns.³¹

In summary it may be said that, aside from the Diplomatic Representative and his staff and the Polish members of the Harbor Board, the special rights of Polish government officials in Danzig were dependent on the nature of their functions and purposes as agreed upon by the two governments and that they enjoyed immunity and other privileges only to the extent necessary for their purposes.

THE STATUS OF POLISH GOVERNMENT PROPERTY IN DANZIG

Under the provisions of the Treaty of Versailles and the Convention of Paris, Poland had received a certain amount of property in the Free City of Danzig and the right to acquire additional property under certain conditions, by purchase or by lease.³² Polish government property acquired by treaty, purchase, or lease included buildings, land, and equipment connected with the broad-gauged rail-

²⁸ *Ibid.* Foster MS, "The Free City of Danzig," p. 209, n. 2, points out that "the reasoning in this sentence is flatly contradicted by the High Commissioner's Decision . . . [of August 23, 1922], and its inclusion in the Agreement was evidently a *beau geste* on the part of the Free City."

²⁹ *Zusammenstellung*, 1920-1923, p. 256. For a supplementary Agreement of June 29, 1925, see *ibid.*, pp. 111-12.

³⁰ Letter of August 7, 1925, from High Commissioner MacDonnell to the Secretary-General of the League of Nations, *ibid.*, 1924-27, p. 113.

³¹ *Ibid.*, 1928-32, p. 168. For a résumé of all regulations concerning the entrance of foreign warships into the port of Danzig, in peace or in war time, see Appendix I to the Protocol of August 13, 1932 (*ibid.*, pp. 176-84). The Protocol itself deals with the entrance of Polish warships (*ibid.*, pp. 172-75). [Crusen, p. 30.]

³² See above, p. 90.

ways,³³ the postal, telegraph, and telephone system between the port and Poland,³⁴ a building for the Diplomatic Representative, a meteorological service³⁵ and a radio station,³⁶ and the munitions depot in the port. Because of its special political importance and legal and other complications the status of the munitions depot has already been described in detail³⁷ and will therefore not be included in this discussion.

In December 1921 Poland put forward extensive claims to extra-territoriality for Polish government property in Danzig as well as for Polish officials. She put her demands on the ground that, certain state property and functions of the Danzig state having been handed over to her by the two treaties of Versailles and Paris, "the only logical conclusion" was that this property, including Polish ships, must be excluded from the judicial and executive authority of the government of the Free City.³⁸ Acting on this assumption, Poland claimed "that her right to purchase, sell, or possess property of all kinds cannot be subject to any limitation on the part of the Government of the Free City, either in the form of expropriation, redemption or pre-emption."³⁹

The High Commissioner examined the Polish claims and found himself unable to accept them. He pointed out that the Harbor Board was given extended rights to lease or acquire such other property as it might deem necessary, but that Poland was given "only certain limited rights" by Article 25, paragraph 4 (referring to postal, telegraph, and telephone services). Furthermore,

the necessity for Poland to acquire a large amount of property to assure her the free use and service of the Port. for her imports and exports, is greatly modified by Article 26 of the Convention, which finally disposes of Articles 104 (2) of the Versailles Treaty by repeating almost in the same words, "It shall be the duty of the Board to assure to Poland the free use and service without any restriction, and in so far as may be necessary for Polish imports and exports, of the port and the means of communication referred to in Article 20."⁴⁰

³³ See above, pp. 139-51.

³⁴ See above, pp. 152-68.

³⁵ On September 1, 1923, Danzig and Poland agreed: "In order to avoid the inconvenience of two meteorological services issuing independent communications to the public in the territory of the Free City, the meteorological station established by Poland at Danzig will not issue such communications to the public" (*Zusammenstellung, 1920-1923*, p. 332). It must have been fun to compare the batting averages of the two competing weathermen.

³⁶ Referred to, *ibid.* [See also Crusen, p. 43.]

³⁷ See above, pp. 204-6.

³⁸ Decision of December 6, 1921 (*Decisions, 1921*, pp. 44-45).

³⁹ *Ibid.*, p. 45.

⁴⁰ *Ibid.*, pp. 49-50.

The High Commissioner concluded that there appeared no doubt that

a) The right of purchase is transferred from Poland to the Harbour Board so far as the domain of the latter extends. Poland's right of purchase in the domain of the Harbour Board does not exist, and elsewhere it is regulated for certain definite purposes by an undertaking on the part of Danzig not to refuse expropriation under equitable conditions (Article 25), (4) [referring to the railways]. Danzig further undertakes to lease or sell to Poland on *equitable terms*, the *necessary* land and buildings for certain other definite purposes (Article 30) [postal, telegraph, and telephone].

b) The Harbour Board and not Poland is the responsible organization to carry out and ensure to Poland the requirements of Article 104 (2).⁴¹

The High Commissioner continued:

It appears from the above that the amount of property actually to be owned by Poland on the territory of the Free City is considerably limited, as are her powers for purchasing fresh property. The necessity for giving extraterritorial rights to this property is nowhere mentioned in either the Versailles Treaty or the Convention, and it has been already shown that the arguments brought forward in support of this claim are not sufficiently supported by either Treaty. Nevertheless it is the intention of both Treaties that Poland should possess certain property in the territory of the Free City, and though that property can be protected equally well by Danzig as by Polish law, it appears to be right that Poland should be given special facilities for using that property, in the same manner as that which she was given as regards the railways in para. 11 of my Decision dated 5th September, 1921, the object being that Poland should be able to enjoy the property she possesses in Danzig without being subject to any claims upon it as regards rates and taxes."⁴²

The Decision was, therefore, to the effect that Polish government property situated in Danzig territory was to be treated in the same way as the Polish railway property, that is, it was to be tax-exempt.⁴³

All that was needed now to settle the matter between the two parties was a subsequent Agreement⁴⁴ and another Decision,⁴⁵ which, in turn, was replaced by another Agreement. By September 1, 1923, it was agreed, decided, and provided that:

All the properties of the Polish State on the territory of the Free City used by the Polish Government for official purposes contemplated in the

⁴¹ *Ibid.*, pp. 50-51. Italics by the High Commissioner.

⁴² *Ibid.*, p. 51

⁴³ *Ibid.*, pp. 53-54

⁴⁴ Agreement of May 17, 1922 (*Zusammenstellung*, 1920-1923, pp. 210-11).

⁴⁵ Decision of May 22, 1923 (*Decisions*, 1923, pp. 17-20)

Treaties in force will be exempt from taxation for as long as they are used for these purposes. In the event of the Polish Government disposing of a part of these properties or employing a part of them for objects not foreseen in the treaties in force, this part of its properties would no longer be exempt from taxation.⁴⁶

SUMMARY: STATUS OF POLISH GOVERNMENT PROPERTY

In general terms, the status of Polish State property in the territory of the Free City of Danzig may therefore be described as follows:

In regard to taxation:

The broad-gauged railways allotted to Poland and all property connected with their exploitation were exempt from direct taxation.⁴⁷ So were all other buildings of the Polish state which were used for official purposes provided for in the treaties in force, as long as they were used for these purposes.⁴⁸ Polish merchant ships were neither tax-exempt nor free from the payment of fees imposed by the Harbor Board.⁴⁹

In regard to jurisdiction:

Movable or immovable properties of the Polish state were not subject to Danzig jurisdiction except in the cases where the Polish government had expressly admitted this jurisdiction and where no real property charges were involved.⁵⁰

The Polish government archives and offices were inviolable.⁵¹

Polish merchant ships were not exempt from regulations imposed by the Harbor Board.⁵²

Certain questions of jurisdiction exercised by Polish authorities—or denied to them—have been discussed in detail in previous chapters dealing with the railroads, postal, telegraph and telephone system, customs administration, the munitions depot, warships, etc.

The Harbor Board, of course, was not a Polish government authority, although half of its members represented Poland.

⁴⁶ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 328-29)

⁴⁷ Decision of September 5, 1921 (*Decisions, 1921*, pp. 33-34). The Railway Administration was obliged, however, to contribute to the support of schools in proportion to the number of children of its employees attending such schools; see above, p. 145.

⁴⁸ Decision of December 6, 1921 (*Decisions, 1921*, pp. 53-54). Agreement of May 17, 1922 (*Zusammenstellung, 1920-1923*, pp. 210-11); Decision of May 22, 1923 (*Decisions, 1923*, p. 17), replaced by Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, pp. 328-29). [See also Crusen, *Der Pariser Vertrag*, pp. 24, 31.]

⁴⁹ Decision of December 6, 1921 (*Decisions, 1921*, p. 54).

⁵⁰ Agreement of September 1, 1923 (*Zusammenstellung, 1920-1923*, p. 328).

⁵¹ Agreement of May 17, 1922 (*ibid.*, p. 214). [Crusen, pp. 41-42.]

⁵² Decision of December 6, 1921 (*Decisions, 1921*, p. 54).

THE POLISH MINORITY RIGHTS

The dispute between Danzig and Poland concerning rights of the Polish minority in the Free City for a decade was often bitter, and by no means necessary, as shown by its final settlement. It affords a view of Free City policy on occasions when it was not confining itself to its ordinary role of defending Danzig's rights as a state against an attempt to widen Polish privileges beyond basic treaty provisions. It reveals Danzig's discrimination against the Polish people in her territory—partly her nationals and partly Polish subjects—a discrimination which assumed the appearance of a settled policy. As such it was born of a combination of Danzig's fears of Polonization (not always unjustified in the light of Warsaw's actions) and of the old-time anti-Polish mentality found among many Germans, especially in the eastern parts of the country.

The problem was finally and rather unexpectedly settled by an agreement concluded in 1933 between the first Nazi administration of the Free City, headed by Dr. Herman Rauschning, and the Polish government of Colonel Beck, which was soon to conclude the 1934 nonaggression pact with Hitler Germany.

Of the population of the Free City some six to ten per cent were Polish-speaking. In 1934—when the final minority settlement was made—Danzig counted some 25,000 inhabitants of Polish speech (out of a total of over 400,000), of whom approximately 7,000 were nationals of Danzig, while most of the others were citizens of Poland.¹

The point at issue in the present discussion, however, is not the size of the Polish minority but the fact that those people in Danzig who were of Polish speech or origin had the right to keep and cultivate their cultural heritage along the general lines guaranteed to racial, religious, and linguistic minorities in the well-known postwar treaties. This right of the Polish minority was firmly anchored in such basic documents as the Treaty of Versailles, the Convention of Paris, and, in addition, the Constitution of the Free City (guaranteed by the League) and the Agreement of Warsaw.

¹ For Polish population figures, see above, pp. 6-7.

THE EARLY POLISH DEMANDS

Some explanation of the strong feelings of the Danzigers in the matter of minority rights is found in their recollection of the early demands of Poland made in her preliminary drafts of the Convention of Paris. At that time Warsaw went to absurd extremes. If her demands had been accepted by the Conference of Ambassadors, Polish nationals and legal persons would have had the unlimited right to enter the Free City ("*le droit d'entrer librement*"), establish domicile in its territory, purchase real estate, conduct a business, profession, or trade, or be appointed to public employment, in addition to enjoying free admission to the courts and the complete protection of the laws. Moreover, Polish nationals would have acquired political rights in the Free City after six months' residence.²

It was provided that similar rights and privileges were to be granted Danzig nationals in Poland;³ but naturally Danzig immigration into Poland would never have constituted a threat to Polish independence, while unrestricted Polish immigration into Danzig, combined with the extensive privileges listed above, could easily have swamped the Free City and deprived it of its long-established national character as well as its recently established independence.

The Warsaw draft also provided for the use of the Polish language on a basis of equality with German,⁴ and Poland would have acquired the right to establish at her expense public schools, hospitals, sanatoria, homes for workingmen, and public gardens, as well as other institutions of public and social welfare. All these institutions were to be subject to the Polish authorities.⁵ Polish was to be admitted as a language of instruction at the Institute of Technology (*Technische Hochschule*) and the Maritime College (*Navigations-schule*).

Moreover, Danzig was to be obligated to establish and maintain a Polish elementary school in any district with forty children whose parents had expressed the desire to have them instructed in the Polish language. Where the number of Polish children in a German school was smaller than forty but over twelve, instruction in religion and the Polish language must be given by a Polish teacher. The Free City would have had to establish and maintain at least two Polish secondary schools and to offer courses in Polish at the technical and

² See Articles 9 to 17 of the First Polish Draft in *Amtliche Urkunden zur Konvention*, pp. 22-25

³ *Ibid*

⁴ *Ibid*, p. 23, Articles 13-14. Official announcements were to be published in both languages.

⁵ Article 18, *ibid*, p. 25.

vocational schools as soon as the number of Polish students attending the school permitted the opening of parallel classes. These Polish elementary and secondary schools were to be administered by officials of Polish origin and tongue, appointed by Danzig. Polish and Danzig nationals were to be admitted on equal terms as students or teachers in any institution of public instruction, including the Institute of Technology and the Maritime College.⁶

THE DANZIG PROPOSALS

While Poland had been very generous and detailed in providing for the rights and privileges of the Polish-speaking minority in the Free City, Danzig's draft proposal went to the other extreme and shied away from specific provisions. She proposed only to take on the obligation not to pass any discriminatory laws to the disadvantage of Polish nationals and other persons of Polish origin or language, while Poland would guarantee reciprocal obligations. The minority rights of Danzig nationals of Polish origin or language were to be guaranteed by the Constitution of Danzig.⁷

THE TREATY BASIS FOR THE MINORITY RIGHTS

The Treaty of Versailles provided in its Article 104, paragraph 5, for the conclusion of a treaty between Danzig and Poland which would include a provision "against any discrimination within the Free City of Danzig to the detriment of citizens of Poland and other persons of Polish origin and speech." The consequent Convention of Paris, as prepared by the Conference of Ambassadors, failed to adopt either the Polish or the Danzig minority proposals. Instead, it provided in its Article 33, paragraph 1, that the Free City undertook to apply to racial, religious, and linguistic minorities provisions similar to those applied by Poland on her territory in execution of the Polish Minority Treaty with the Allied and Associated Powers of June 28, 1919.⁸ In particular, the Free City undertook to provide against any discrimination in legislation or in the conduct of the ad-

⁶ For these educational provisions, see Articles 18 to 23, *ibid*, pp. 24-27. For substantially the same minority demands in the Second Polish Draft, see its Articles 11-28, in *Antliche Urkunden*, pp. 58-67.

⁷ Article VIII, paragraph 1, *Antliche Urkunden*, p. 49. The two drafts of the Conference of Ambassadors are substantially the same as the final provisions of Article 33, paragraph 1, of the Convention of Paris; see *Antliche Urkunden*, pp. 113, 143, 200-201. [Crusen, *Der Pariser Vertrag*, p. 450.]

⁸ Georges Kaeckenbeeck in chapter v of his *The International Experiment of Upper Silesia* (London, 1942), provides a detailed and excellent examination of the working of the Minorities Treaty in Upper Silesia. Many parallels in Polish and German attitudes can be found in Upper Silesia and Danzig. [Crusen, pp. 455-83.]

ministration, to the detriment of members of the Polish minority, in accordance with the provisions of the Treaty of Versailles mentioned above.

THE CONSTITUTIONAL BASIS FOR MINORITY RIGHTS

The members of minorities who were Danzig nationals also enjoyed constitutional guaranties such as equality before the law, liberty of person, etc., which applied to all citizens of the Free City. In addition, Article 4 of the Constitution provided:

The Polish-speaking portion of the population shall have guaranteed its free racial development by the law and the administration, in particular as regards the use of its mother-tongue in the schools and in the internal administration and as well as in the administration of justice. Details will be determined by law.

The Constitution, it will be recalled, was under the guaranty of the League of Nations.

SOME LEGAL DIFFERENCES BETWEEN MINORITY PROBLEMS

In dealing with the international aspects of the Polish minority question in Danzig it is necessary to keep in mind that there is a legal difference between the problems which related especially to Polish nationals and those which concerned both Polish nationals and other persons of Polish origin or speech. Foster points out that each of these groups of persons was protected without differentiation by the pertinent provisions of the Treaty of Versailles and the Convention of Paris but that, aside from this fact, each possessed a separate legal character in the territory of the Free City.⁹

1. Polish nationals were aliens in the eyes of Danzig law, the same as all other foreigners. They were subject to the "Laws and judiciary system of the Free City," as High Commissioner Haking decided in 1921,¹⁰ including, of course, the various regulations and decrees regarding arrival, registration with the police, *permis de séjour*, employment licenses, taxation, etc. As Polish citizens, they received the protection commonly granted to nationals by their home government. In addition, they enjoyed the special treaty protection which established them as a distinct class among foreigners living in Danzig territory. The regulations for aliens mentioned above, for instance, as they applied to Polish nationals, were drawn up by the

⁹ Foster MS, "The Free City of Danzig," p. 255.

¹⁰ Decision of December 6, 1921 (*Decisions*, 1921, p. 54).

Danzig government in agreement with the Polish government, rather than at its own discretion.¹¹

2. "Other persons of Polish origin or speech" within the Free City could be citizens of Danzig or nationals of a third state (other than Poland). If they were Danzig citizens, they were "equal before the law" with every other Danzig national, according to the Constitution (Article 73). They were a distinct group, however, in that their (Danzig) government was restrained by international agreement from legislative or administrative discrimination against them because of their Polish origin or speech. They could appeal to a foreign state (Poland) in case their own state failed to grant them legal equality.

To add one more bit of finesse to an already complicated situation—there were (3) a few persons in Danzig who were of Polish origin or speech but who were nationals, not of Poland, nor of Danzig, but of third states. These persons had a unique status. Each as a foreigner in Danzig enjoyed the protection of his own government; but because of their Polish origin or speech they could also claim the additional protection granted them by the Treaty of Versailles and the Convention of Paris.

Mr. Foster sums up the situation admirably when he states:

In so far as Polish-Danzig relations are concerned there exist on the territory of the Free City five legally distinct groups of people.

There are in the first place those Danzig nationals who are not of Polish origin or speech, and in them the Polish Government has of course no juridical interest.

There are secondly those Danzig nationals who are of Polish origin or speech, and the Polish Government is entitled to appeal on their behalf to the Danzig Government, to the High Commissioner, or to the League of Nations whenever it appears that the Danzig authorities have discriminated against them in violation of Article 33 of the Convention of Paris.

In the third place there are Polish nationals, and the Polish Government extends to them the protection which, under the rules of international law, is commonly given by a State to its citizens in foreign lands. Beyond this the Polish Government may interfere for them because they are the subject not only of Article 33 of the Convention of Paris but also of numerous subsequent agreements; an alleged violation of this Article or these agreements constitutes valid ground for a "difference" between the two States and may be submitted to the League of Nations.

In the fourth place there are aliens who are nationals of States other than Poland but who are of Polish origin or speech; and the Warsaw

¹¹ The reasoning of this and the following two paragraphs follows Foster MS cited, pp. 255-57

Government is entitled to take action on their behalf for the same reason that applies in the case of Danzig nationals of Polish origin or speech.¹²

Fifth and last are the aliens who are not of Polish allegiance or origin or speech, their presence in the Free City has no relevance to the matter under consideration.

In sum, then, there exist different relationships between the Polish Government on the one hand, and each of these five groups on the other, while the resultant legal problems that arise between Warsaw and Danzig relate either to Polish nationals alone or to both Polish nationals and other persons of Polish origin or speech.

Examples of matters which touch only Polish nationals are: the admission, control, and expulsion of foreigners by the Free City; naturalization; the conversion of foreign companies into Danzig companies; the possession of property and payment of taxes by aliens; the commercial rights enjoyed by foreigners.

Examples of matters which concern both Polish nationals and other persons of Polish origin or speech are: educational rights and facilities; the use of the Polish language in the press, in commercial relations, and in intercourse with the Danzig authorities.¹³

BASES FOR DISPUTES

There was a strong fear in Danzig that the existing Polish minority not only might expand in size and thus affect the national character of the population but might also grow in power and influence beyond their basic rights, owing to the energetic backing of the Warsaw government. Undoubtedly, strong attempts were also made in Danzig to push back already existing Polish influence and to reserve not only local culture but also the commercial cream and gravy for deserving Danzigers. At times the two tendencies met head-on and, of course, caused collisions which added their shrill noises to the other dissonant tones. On other occasions the conflicting desires and tendencies just met and rubbed against each other in a crowded space. Still other problems arose simply because the minority arrangements ran into practical difficulties as they were being translated from the general language of the Convention of Paris into the concrete details of more specialized agreements and their administration in daily life.

NATURALIZATION AND THE STATUS OF CORPORATIONS

Among the early problems were the matters of naturalization and the laws affecting the status of corporations in Danzig. Both were of obvious importance to the realization of Poland's access to the sea.

¹² According to the census of 1923 this group numbered only 315 persons (Foster MS, "The Free City of Danzig," p 258, n. 1)

¹³ *Ibid.* pp. 257-58.

The Conference of Ambassadors decided, therefore, not to leave them in the exclusive jurisdiction of the Free City but to make them subject to treaty provisions. Article 34 of the Convention of Paris accordingly provided.

The conditions of naturalization in the Free City of Danzig and the conditions under which foreign companies may be converted into Danzig companies shall be determined in agreement between the Free City and Poland.

Apparently it was considered possible that a recalcitrant Danzig might try to hinder Poland's legitimate commercial interests in the Free City by discriminating against Poles seeking Danzig citizenship or Polish concerns desiring to acquire the rights of Danzig corporations, in favor of German citizens or enterprises from the Reich.

The legal provisions for naturalization were considered of sufficient importance to claim the attention of the League Council. Viscount Ishii reported on November 17, 1920, in his capacity as Rapporteur that "it is to the interest of the League of Nations that citizen rights of Danzig should not be extended or restricted in an improper way."¹⁴ The Council consequently resolved:

That a clause should be inserted in the Constitution [of the Free City] to the effect that the Government of Danzig shall submit for the examination of the League of Nations . . . the principles of the draft of the law provided for by Article 72 of the Constitution which deals with the citizenship of the State of Danzig.¹⁵

Consequently the League Council approved the draft,¹⁶ and the naturalization bill was enacted into law on May 30, 1922.¹⁷

In the meantime the Danzig and Warsaw governments had come to an agreement, in accordance with the provision of Article 34 of the Convention of Paris, on the conditions governing naturalization in the Free City and the conversion of foreign concerns into Danzig corporations. These provisions were embodied in Part I of the Warsaw Agreement of October 24, 1921.¹⁸

¹⁴ League of Nations Publications 20-48-98 (1).

¹⁵ *Official Journal*, March-April, 1921, pp. 166-70.

¹⁶ *Ibid.*, February 1922, pp. 96, 143.

¹⁷ For the text of the law of May 30, 1922, *Concerning the Acquisition and Loss of Danzig Nationality*, in English translation, see Richard W. Flourney, Jr., and Manley O. Hudson, *A Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties*, Oxford University Press, 1929, pp. 209-12 (contains bibliography). [Crusen, *Der Pariser Vertrag*, pp. 500-507.]

¹⁸ Articles 1-13 and 32-38, respectively; see *Abkommen vom 24. Oktober 1921* . . . , pp. 6-9, 13-15.

The Warsaw Agreement further provided for equal rights in every respect of Polish nationals in Danzig and Danzig nationals in Poland who had established themselves in the respective territories in commercial or manufacturing pursuits—especially in regard to the imposition of higher or additional taxes on the legal ground of their nationality and in regard to the acquisition, possession, management, or disposal of movable or immovable property.¹⁹

AGREEMENT TO DISAGREE

In certain other matters, the Danzig and Polish governments were merely able to record their disagreement in the pages of the Warsaw Agreement:

Whereas the Polish Republic, relying on the provisions of Article 104, point 5, of the Treaty of Peace of Versailles, and Article 33, paragraph 1, of the Polish-Danzig Convention of November 9th, 1920 [Paris], claims more extensive rights than those provided in the present Agreement, and whereas the Free City of Danzig does not acknowledge these rights, the Polish Republic expressly reserves these more extensive rights, particularly in regard to the extent of the minority rights of Polish nationals in the Free City, and in regard to the matter of expulsion."²⁰

A CASE OF EXPULSION

Within the first year of the existence of the Free City and, in fact, shortly after the conclusion of the Warsaw Agreement a dispute arose between Danzig and Poland over a minority case. The Polish government asked High Commissioner Haking for a decision whether a certain person of Polish nationality should have been ordered by the Danzig authorities to leave the Free City and whether he should have been arrested when he refused to do so.²¹

Warsaw claimed that the Danzig authorities were trying to make it difficult for Polish citizens to earn their living in Danzig and that they had expelled Polish nationals from Danzig, acting on a Senate Decree of August 9, 1921. In the view of Poland, this decree infringed on both Article 104 of the Treaty of Versailles and Article 33 of the Convention of Paris and "completely excludes Poland from free access to the sea through the Port of Danzig," causing, in addition, great loss to Polish firms and citizens in Danzig.²²

Danzig's retort was to the effect that since January 1920 there had been a great influx of foreigners, which was still continuing and was putting an ever-increasing economic and social strain on the Free

¹⁹ Articles 39 and 43; see *Abkommen vom 24 Oktober 1921 . . .*, pp. 15, 17. [Crusen, pp. 482-83]

²⁰ Article 229, *ibid.*, p. 93.

²¹ Decision of December 16, 1921 (*Decisions, 1921*, p. 60)

²² *Ibid.*

City by raising prices of food, increasing the housing shortage (in December 1921, it was stated, 7,876 parties were looking for housing accommodations in the city of Danzig alone), and adding to unemployment. Since foreigners could enter the Free City without any passport or visa, there had been a "collection of criminals, suspicious characters, profiteers in currency, provisions and goods of all kinds, who evade taxation and are an economic danger to the State." For these reasons Danzig had had to take steps to supervise foreigners within her territory, "a right possessed by every independent State, and at present exercised with great vigour by most States in Europe," and "recognized by Poland in Article 12" of the Convention of Paris. Since the Free City had not adopted any provision for preventing foreigners from entering her territory, expulsion of undesirable aliens was the only remaining method of control. The right of expulsion had been used sparingly and only after the most exhaustive inquiries (with ample warning and full reasons given to the person involved), and had been exercised during the period of September 1 to November 30, 1921, only against 63 Polish nationals and 67 other foreigners, of whom 46 were Germans. Finally, Danzig claimed that if these rights in regard to foreigners clearly laid down in Article 12 of the Convention of Paris were withdrawn and the rights now claimed by Poland were granted, "Danzig would no longer be a Free City and would rapidly become Polonized at the cost of the expulsion of Danzig citizens."²³

²³ *Ibid*, pp. 61-63 Article 12 of the Convention of Paris, to which Danzig referred repeatedly, read: "Subject to the rights belonging to Poland and referred to in Article 2, the control of foreigners in the territory of the Free City of Danzig shall be exercised by the authorities of the Free City." Foster MS, "The Free City of Danzig," p. 262 n., remarks in this connection: "The rights belonging to Poland under Article 2 . . . concern the conduct of the foreign relations of the Free City, and it is impossible to define the exact limit to which they intrude upon the right of the Danzig Government to control the foreigners in its territory. Generally speaking, the authorities of the Free City exercise over the citizens of States other than Poland unrestricted control in domestic affairs [e.g., police registration, *permis de séjours*, etc.] and they may in certain cases [e.g., breaches of the criminal or civil laws] correspond directly with the States concerned. Those matters in the diplomatic sphere which touch the relation between the foreigner and his own Government [e.g., extradition, protection, etc.] must, however, be transacted via Warsaw. Furthermore, the control of Polish nationals by the Danzig Government is . . . subject to the stipulations of the Treaty of Versailles, the Convention of Paris, and certain subsequent Polish-Danzig agreements. Article 12 is therefore not in harmony with the rest of the Convention of Paris; it should read: 'Subject to the rights belonging to Poland and referred to in Articles 2 and 34, and subject also to the obligations imposed upon the Free City by Article 33, the control of foreigners in the territory of the Free City of Danzig shall be exercised by the authorities of the Free City.'"

THE HIGH COMMISSIONER'S DECISION, 1921

The High Commissioner pointed out in his Decision of December 16, 1921, that the Danzig claim to full rights to expel foreigners rested on Article 12 of the Convention but that these rights were limited by Article 33, in which Danzig undertook "to provide in particular against any discrimination in legislation or in the conduct of the Administration, to the detriment of nationals of Poland," etc. He added: "It is quite evident that the expulsion of Polish nationals from the territory of the Free City is to their detriment, on the other hand it is equally evident that if this right is taken away from Danzig Article 12, which is just as binding as Article 33, will be ineffective."²⁴

In an effort to make both articles effective, the High Commissioner decided that the procedure employed by the Senate for the control and expulsion of foreigners in Danzig territory was "reasonable and just," and not contrary to the terms of the Treaty of Versailles or the Convention of Paris. But he also decided that when in the future a Polish national should disobey the order to depart, the Danzig government, as an act of courtesy to the Polish government, should inform the Diplomatic Representative of the facts in the case. The latter, in turn, would notify the Danzig government within seven days whether or not he wished to protest against the deportation of this person and, if so, he would give his reasons. The High Commissioner pointed out that in this way "the Polish nationals will receive more favourable treatment than those of other foreign States, the terms of Articles 12 and 33 of the Convention will not be violated, and any cause of friction between the two Governments and people will be avoided."²⁵

Both Danzig and Poland appealed this decision. The League Council suggested that the two governments agree upon a settlement under which the Free City should enjoy the right to expel Poland's nationals who were harmful to the Free City in an economic, national, social, or religious sense, while Warsaw would be able to appeal to the High Commissioner any cases of expulsion that she considered unjustified.²⁶

THE AGREEMENT OF 1922

Such a settlement was concluded on August 17, 1922, when the Free City undertook not to effect the expulsion of a Polish national

²⁴ *Decisions, 1921*, pp. 63-64.

²⁵ *Ibid*, pp. 67-68

²⁶ *Official Journal*, June 1922, pp. 673-74. Mr. Adatchi, Rapporteur, based this suggestion on the principles of Article 29 of the Warsaw Agreement

for four weeks after the Diplomatic Representative had been notified of the order and the reasons for it. Poland could appeal the case within this four-week interval. In such a case, Danzig would postpone the expulsion by another week, during which the High Commissioner would make his decision. In case the decision supported the stand of the Danzig government the latter would carry through the expulsion regardless of Poland's rights to appeal the High Commissioner's decision to the League Council.²⁷ In certain cases of urgency involving criminals or considerable health hazard to the local population, etc., the Danzig authorities were free to carry through an order for expulsion without being bound to a time limit. Poland, however, kept the right of appeal to the High Commissioner.²⁸

A year later Dr Heinrich Sahm, President of the Danzig Senate, stated before the League Council that the agreement had worked admirably and that not a single difference of opinion had arisen over it between Danzig and Poland.²⁹ Although the Agreement was concluded for a period of five years, it was still in effect as late as 1935³⁰ and probably later.

During the summer of 1923 Danzig and Poland settled their outstanding differences, following a suggestion of the League Council, except one. In regard to the question of the legal status of Polish citizens in Danzig the High Commissioner had to report that on this matter "of vital importance to both parties" the views of the two governments were

so widely divergent as not to offer any common basis for an agreement, and both have requested that it be settled by the machinery provided for the settlement of differences between the two Governments. The matter turns upon two different and perfectly bona fide interpretations of certain paragraphs in the Treaties, on which there will, I think, be required an opinion or a decision of some judicial authority. It is certain that whatever decision I may give will be appealed against by one and possibly by both parties, so that the Council will have the matter brought before it in the normal case of procedure

I wish to make it clear that in this particular case there is no animosity or strained relationship between the two Governments, but both feel that until this very important question is settled it will be impossible for

²⁷ *Ibid*, for the texts of Mr Adatchi's Report of the Agreement, see *Zusammenstellung, 1920-1923*, pp. 227-37. The "right of a Polish national to own property on Danzig territory and to dispose of it, and to take his movable property with him, shall not be affected by the expulsion" (*ibid.*, p. 235). [Crusen, pp. 183, 186-87, 460-62, 572]

²⁸ *Ibid.*

²⁹ *Official Journal*, October 1924, pp. 1302-3.

³⁰ Foster MS, "The Free City of Danzig," p 263, n 2. (Crusen, pp. 186-87.)

each to know what should be its correct and legal attitude towards the other side³¹

Danzig and Poland agreed upon a temporary arrangement in regard to police regulations for Polish nationals (arrival, departure, change of residence, etc.), the acquisition of property by Polish nationals (the Danzig authorities agreed to notify the Polish Diplomatic Representative whenever they refused or agreed to the acquisition of real property by citizens of Poland), and the payment of taxes by Polish nationals.³²

THE MAJOR MINORITY DISPUTE, 1930

During the next decade there were frequent disagreements over the Polish minority question. They reached their peak toward the end of 1930—after years of improved Danzig-Polish relations in the late 1920's.

On September 30, 1930, Poland asked the High Commissioner for a decision on the alleged unfavorable treatment of Polish nationals and other persons of Polish origin or speech. In an accompanying explanatory memorandum of 98 printed pages the Diplomatic Representative, Henryk Strasburger, made grave charges against the Danzig government relating to public and private education, recognition of school certificates and diplomas, use of the Polish language, questions of nationality, business activity, acquisition of landed property, allotment of dwellings, registration with the police, and liberty of domicile.

THE POLISH CHARGES

In regard to Polish education in the Free City, the Poles claimed that it was "in every way poor" from the elementary level to the university grade, in regard to the level of instruction, pressure on parents by the school authorities, discrimination against the teachers, lack of schoolbooks, etc. Polish parents, he stated, were afraid to send their children to Polish schools for fear of "unpleasant consequences from their [German-Danzig] employers."³³

In regard to the Institute of Technology (*Technische Hoch-*

³¹ *Zusammenstellung, 1920-1923*, pp. 282-84; see also pp. 312-14.

³² *Ibid.*, pp. 314-18.

³³ *Collection of Documents* relating to the dispute between the Free City of Danzig and the Polish Republic regarding Article 33 of the Treaty between Danzig and Poland of November 9th, 1920, "Protection of Minorities," Danzig, 1931, published by the Government of the Free City of Danzig, pp. 23-46. For the early divergent views of Danzig and Poland on the question of Polish education in the Free City, see Article 227 and Annexes to Part IX of the Warsaw Agreement (*Abkommen vom 24. Oktober 1921* . . ., pp. 92, 95-194).

schule), M. Strasburger charged that Danzig had not lived up to its agreement (with Poland) of July 27, 1921,³⁴ in regard to instituting a Polish lectureship, a course on Polish economic geography, Polish books, etc.³⁵ He also complained about the view of the Danzig Senate that the equality of students provided for in this agreement "does not imply equal treatment with students of Danzig nationality and merely refers to other than Danzig nationality. The Polish Government had adopted a different view."³⁶ As Morrow points out, "The spirit animating the Polish attitude to Danzig comes clearly into the foreground in this latter complaint. Poland demanded from Danzig exceptional treatment for its nationals. Danzig was determined to place them on a footing of equality with other nationals in so far as they did not possess special treaty rights and privileges."³⁷

The other complaints of the Diplomatic Representative were similar in tone. He claimed that the Danzig officials and institutions—with the exception, "to some extent," of the courts—made it impossible for the Polish businessmen to use the Polish language in their mutual relations, insisting on the principle of the exclusive use of the official language, i.e., German. The frontier officials and police officers refused to give information in any language but German. The same was true of the streetcar conductors and the bus drivers.³⁸ The reason advanced for this state of affairs was that "the Danzig authorities . . . deliberately do not wish to admit the use of the Polish language as they are afraid this would lead to a violation of the German character of the Free City . . . the theoretical excuse is always the alleged Polonization of the city."³⁹

THE DANZIG REPLY

The Senate sent its reply to the Polish charges on December 3, 1930, in a document 84 pages long, addressed to the High Commissioner Count Gravina.⁴⁰ It began and ended the text of its answer with the statement that the claims put forward by the Polish government were unfounded and should be rejected. In between it proceeded to answer the Polish charges in detail, not neglecting to compare the situation of the Polish minority in Danzig with that of the German minority in Poland. The general tenor of such comparisons was that conditions in Danzig were either more favorable⁴¹ than in Poland, or not less favorable, or as favorable.⁴²

³⁴ Text in *Collection-Minorities*, pp. 37-40.

³⁵ *Ibid.*, pp. 39-40.

³⁶ *Ibid.*, p. 44.

³⁷ *Peace Settlement*, p. 113.

³⁸ *Collection-Minorities*, pp. 50-52.

³⁹ *Ibid.*, p. 52.

⁴⁰ *Ibid.*, pp. 103-86.

⁴¹ *Ibid.*, pp. 111-15, 121, 122, 126, 146.

⁴² *Ibid.*, pp. 117-20, 122-24, 126, 146.

THE POLISH REJOINDER

The Polish government had its answer to the Danzig reply, also addressed to the High Commisisoner,⁴³ ready on January 29, 1931. This document, 129 pages of text, again asked the High Commissioner to find in accordance with the Polish request of September 30, 1930. It put forward the argument that:

The primary source of all the misunderstanding and of the constant friction between Polish nationals and the Danzig authorities is the erroneous and unjustified system of treating them in every respect as foreigners and as essentially undesirable. This is where it is most palpably evident that Danzig takes an exclusively political view of this question of Polish-Danzig relations, and while formally observing the letter of the law throws all kinds of obstacles in the way of Polish nationals carrying on business and making use of the Harbour of Danzig—to the obvious detriment even of its own economic interests.⁴⁴

The Polish statement continued: "The Senate itself admits that its fears regarding the German character of Danzig are exaggerated seeing that, with a population [as is specially stressed] 90 per cent German, Danzig has no need to fear any attempts which may be made to Polonize it."⁴⁵

THE ANIMUS BACK OF THE CONFLICT—THE CASE OF THE
POLISH STUDENTS

Morrow is correct in pointing out the importance of the *spirit* in which these Danzig-Polish controversies were conducted.⁴⁶ We may follow his example and examine a single case at issue in order to show the manner in which the dispute was conducted. The problem turned on the rights and certain actions of the Polish students at the *Technische Hochschule*.

The Senate had stated in its reply of December 3, 1930, that a Polish student association had organized a parade, with the Polish colors, in the vestibule of the *Technische Hochschule* on June 28, 1927, the anniversary of the Treaty of Versailles, "a day on which special tact should be exercised so as not to wound the national pride of any German." No permission for holding the parade had been applied for, in violation of student-body rules. The fact that no disturbance took place was attributed by the Senate only to the self-control of the German students. For the future the university au-

⁴³ *Collection-Minorities*, pp. 187-315.

⁴⁴ *Ibid.*, p. 189.

⁴⁵ *Ibid.*, p. 191.

⁴⁶ *Peace Settlement*, p. 114.

thorities forbade all such demonstrations, "by whomsoever organized, on that date on which political feeling runs high."⁴⁷

The Diplomatic Representative asserted in his retort of January 29, 1931, that

Apart from the question of the attitude which the Senate manifests in its reply towards celebrations of the anniversary of an instrument which is the fundamental legal basis of Danzig's existence and which guarantees to Poles respect for their racial peculiarities and the right to free national development, I see no good grounds which would justify the Rector's decree banning once and for all any kind of celebrations on that day. The Polish Government considers that such action bears a specifically political complexion inimical to Polish students. . . .⁴⁸

The Senate further claimed that Polish student associations had "shown a lack of tact" by submitting their required membership reports to the university authorities "on paper with a printed address which was not the official 'Danzig-Langfuhr' but merely a Polish translation."⁴⁹ The Diplomatic Representative, in turn, was unable to see a reason for accusing the Polish students of tactlessness in this matter.⁵⁰

The Senate freely admitted as a fact that, although the Polish student associations were invited to attend the ceremonies at which the new *Rektor* took office and other academic ceremonies, they were not permitted to wear uniforms or to carry banners. The Danzig attitude was that "the rights of Polish students extend only to instruction [in the *Technische Hochschule*]. Ceremonies organized by the Rector and the Senate have nothing to do with such questions and must be settled at the discretion of these authorities. We therefore decline to discuss the questions further." Matters were hardly helped by the following statement of the Senate:

In view of the great sacrifices which Danzig is making for Polish students and the undeniable fact that they are given an opportunity of studying the advanced German engineering methods, gratitude rather than complaints would seem to be called for.⁵¹

It is not surprising that the Polish government was unwilling to acquiesce in such discriminatory treatment of Polish students. As the Diplomatic Representative wrote:

No one can comprehend why the Polish corporations [students associations] representing the great majority of the [Polish] students are not

⁴⁷ *Collection-Minorities*, pp. 136-37.

⁴⁸ *Ibid.*, p. 244.

⁵⁰ *Ibid.*, p. 244.

⁴⁹ *Ibid.*, p. 137.

⁵¹ *Ibid.*, p. 139.

given full official recognition in contrast to the German corporations. It is equally inexplicable why the "Deutsche Studentschaft" alone and not the Polish Sports Club [Students' Sports Club] . . . is permitted to take part in the . . . [university] sports championships.⁵²

The case of the Polish students at the Institute of Technology in Danzig was but one example of the spirit in which the several disputes over minority questions were handled. Even in cases where Danzig did have the strictly legal right on her side, her interpretation was often unnecessarily provocative in tone or apparent intent. On the other hand, the Poles did not show much understanding of the psychological fact that the Danzigers considered themselves part and parcel of the defeated German nation which had suffered more severe territorial and other losses at the hands of Poland than any other country, a fact of which the people of Danzig were most painfully conscious.

MUTUAL COMPLAINTS—SERIOUS AND OTHERWISE

The disputes continued throughout the spring of 1931. The Poles continued to complain of attacks on Danzig territory against Polish property and the lives and well-being of Polish officials, and nationals and Danzig nationals of Polish origin, and a lack of consequent infliction of penalties upon wrongdoers by the Danzig authorities. Their specific charges ranged from physical injury to murder. The Senate, in turn, stoutly rejected the charges in detail and answered with a list of alleged attacks by Poles on the lives of Danzig nationals and their property, including a case of rape. The Danzig charges further included cases of gross drunkenness, "wild excesses" of sailors, involving the use of knives; the removal of a sign with the inscription "Men" from a public lavatory by a member of the Polish Naval Air Force after he had already torn off a sign "Private bridge: Not open to bicycles or vehicles"; a public scandal caused by a Polish Councillor of Legation ("Whose name appears as No. 9 on the list of the Polish Diplomatic Representative") in the room of a public prostitute whom allegedly he beat and injured; and the commission of a "nuisance on the pavement" and insults and threats to the officials who called him to account by a military adjutant attached to the Diplomatic Representative, etc.⁵³ If not all of these charges seem of great importance in the light of historical and geographical distance, they at least seemed to serve their emotional purpose at the time.

The Poles offered further charges of their own, but they too

⁵² *Collection-Minorities*, p. 246.

⁵³ *Official Journal*, July 1931, pp. 1479 ff.

seemed to run out of blockbusting ammunition. They complained, giving location and date, that Danzigers had thrown stones at a Polish warship as it was leaving Danzig. They also charged that Polish mailboxes had been damaged on ten occasions, the damage being inflicted variously by a stick with a spike attached to it, by erasing the emblems of sovereignty (apparently the Polish White Eagle painted on the front of the red boxes), by scribbling with a greenish-blue pencil, by throwing lime on the mailbox, or by pasting paper—once with swastikas on them—or cards or election posters on them.⁵⁴

THE BASIC POINT AT ISSUE

Questions of fact as to the alleged mistreatment of the Polish minority were only a part of the point at issue and were overshadowed by the basic divergence of views between Danzig and Poland. Their respective views were fairly summarized in the second reply of the Senate, dated May 5:

Poland demands that every person who by race or speech belongs to the Polish minority should, irrespective of his nationality, be put on an entirely equal footing with Danzig nationals, except in the one respect of political rights.

Danzig wishes to treat those members of the Polish minority who are not Danzig nationals exactly in the same way as other foreign nationals are treated.⁵⁵

The difference of opinion was so fundamental that in transmitting the various memorials to Geneva the High Commissioner wrote to the Secretary-General of the League that "it would serve no useful purpose to examine the numerous concrete points submitted to the High Commissioner for decision in the request of the Polish Government of September 30th before the legal points involved have been settled beyond dispute." In agreement with the parties he therefore suggested to the League Council the eminent desirability of asking the World Court for an advisory opinion on the legal points on which the two governments differed.⁵⁶

REQUEST FOR AN ADVISORY OPINION

The High Commissioner's suggestion was endorsed by the current Rapporteur, Mr. Arthur Henderson, and on May 22, 1931, the

⁵⁴ *Ibid.*

⁵⁵ *Collection-Minorities*, p. 346.

⁵⁶ Advisory Opinion on *Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory*, Publications of the Permanent Court of International Justice, Series A/B, No. 44, pp. 9-10 [Crusen, pp. 459-62]

Council resolved to request the Court for an advisory opinion⁵⁷ on the two following legal questions:

(1) *Is the question of the treatment of Polish nationals and other persons of Polish origin or speech in the territory of the Free City of Danzig to be decided solely by reference to Article 104 (5) of the Treaty of Versailles and Article 33, paragraph 1, of the Convention of Paris (and any other treaty provisions in force which may be applicable), or also by reference to the Constitution of the Free City; and is the Polish Government accordingly entitled to submit to the organs of the League of Nations, by the method provided for in Article 103 of the Treaty of Versailles and Article 39 of the Convention of Paris, disputes concerning the application to the above-mentioned persons of the provisions of the Danzig Constitution and other laws of Danzig?*

(2) *What is the exact interpretation of Article 104 (5) of the Treaty of Versailles and of Article 33, paragraph 1, of the Convention of Paris, and, if the reply to question (1) is in the affirmative, of the relevant provisions of the Constitution of the Free City?*"⁵⁸

In its examination of the case, the Court went into the principal facts connected with the origin and evolution of the Danzig Constitution, the Convention of Paris, and the Warsaw Agreement and analyzed the relation of these documents to each other and to the Treaty of Versailles.

THE COURT'S REASONING

As the Court put it, the Constitution of Danzig "presents certain peculiarities which are not to be found in the constitutions of other countries," referring to the fact that it was drawn up with the collaboration of the League of Nations and was placed under the guarantee of the League.⁵⁹ In taking up the Council's question whether Poland could submit disputes to the High Commissioner (under Article 39 of the Convention of Paris) concerning the application of the provisions of the Danzig Constitution and other laws of Danzig to Polish nationals and other persons of Polish origin or speech, the Court stated that a dispute could be submitted only if it was a difference arising between Poland and the Free City and "it must relate to a matter 'affecting the relations between Poland and the Free City'."⁶⁰

The Court points out that

The Polish Government contends that all constitutional and treaty restrictions upon the independence of the Free City are organic limita-

⁵⁷ Advisory Opinion, *Treatment of Polish Nationals*, p. 10.

⁵⁸ *Ibid.*, p. 5. Italics by the present writer. ⁵⁹ *Ibid.*, p. 81. ⁶⁰ *Ibid.*, pp. 22-23

tions which are so intimately connected with one another that they reveal a "unity of purpose"; that the guarantee of the Constitution by the League, being subordinated to the respect of the treaty rights of Poland, constitutes an inseparable element of the legal status of Danzig; that this legal status is *sui generis*; and that consequently the ordinary legal distinction between matters of a domestic and of an international character does not hold good in the present case

The Court is unable to accept the contention of the Polish Government. In its opinion, the fact that the legal status of Danzig is *sui generis*, does not authorize it to depart from the ordinary rules governing relations between States and to establish new rules for the relations between Poland and Danzig. The general principles of international law apply to Danzig subject, however, to the treaty provisions binding upon the Free City and to decisions taken by the organs of the League under these provisions. The peculiar character of the Danzig Constitution . . . affects only the relations between Danzig and the League. A violation or an erroneous application of the Constitution by Danzig is, therefore, so far as international relations are concerned, a matter solely between the League, as guarantor, and Danzig. With regard to Poland, the Danzig Constitution, despite its peculiarities, is and remains the Constitution of a foreign State. Any grievance which Poland may allege against the Free City arising out of the application by the latter of its Constitution as such cannot therefore give rise between Poland and the Free City of Danzig to differences in regard to a matter affecting the relations between Poland and the Free City within the meaning of Article 39 of the Convention of Paris; differences submitted to the High Commissioner under these conditions cannot therefore be entertained by him.⁶¹

Therefore,

. . . . the question of the treatment of Polish nationals or other persons of Polish origin or speech must be settled exclusively on the bases of the rules of international law and the treaty provisions in force between Poland and Danzig.⁶²

The Court pointed out that the "application of the Danzig Constitution may however result in the violation of an international obligation incumbent on Danzig towards Poland," in which case Poland would undoubtedly be entitled to submit such a case to the High Commissioner.⁶³

THE COURT'S OPINION ON QUESTION ONE

The Court was, therefore, by nine votes to four, of opinion:

(1) that *the question of the treatment of Polish nationals and other persons of Polish origin or speech in the territory of the Free City of Dan-*

⁶¹ *Ibid.*, p. 23

⁶² *Ibid.*, p. 24

⁶³ *Ibid.*, pp. 24-25

*zig must, as between Poland and the Free City, be decided solely by reference to Article 104:5 of the Treaty of Versailles and Article 33, paragraph 1, of the Convention of Paris (as also, if necessary, by reference to other treaty provisions in force or rules of ordinary international law) and not by reference to the Constitution of the Free City, with the result that the Polish Government cannot submit to the organs of the League of Nations disputes concerning the application to the aforesaid persons of the Danzig Constitution and other laws of Danzig by the method provided for in Article 103 of the Treaty of Versailles and Article 39 of the Convention of Paris except in the case of disputes concerning the violation, as a result of such application, of an international obligation of Danzig towards Poland arising either from treaty provisions in force between them or from ordinary international law.*⁶⁴

THE COURT ON THE SECOND QUESTION

In regard to the second question submitted by the League Council, the Court stated as its opinion that Danzig had undertaken under Article 33, paragraph 1, of the Convention of Paris, to apply to Polish nationals and other persons of Polish origin or speech in its territory the minority system of the Polish Minority Treaty of June 28, 1919,

as that system is actually applied in Poland by the Polish Government, and to avoid in her legislation or in the conduct of her administration any differential treatment to the detriment of the aforesaid Polish nationals and other persons, on account of their Polish allegiance, origin or speech, either in the application to the minorities in her territory of provisions similar to those applied to minorities in Poland by the Polish Government, or in the grant of more extensive rights to these minorities or to foreigners not belonging to minorities.⁶⁵

The Advisory Opinion thus settled the legal issues of a controversy of twelve years' standing and determined the status of the Polish minority.

A LEGAL VICTORY FOR DANZIG

The Court's opinion was in favor of Danzig and

came as a blow to the Polish Government, which had sought to bring the Danzig Constitution within the realm of those "differences" that may be submitted to the High Commissioner under Article 39 of the Convention of Paris, and which desired above all else to gain special rights and privileges in Danzig for its citizens and "other persons of Polish origin or speech." The independence of the Free City had been

⁶⁴ Advisory Opinion, *Treatment of Polish Nationals*, p. 42. Italics by the present writer.

⁶⁵ *Ibid.*, p. 43.

underlined once more, and from her point of view the barriers against the "Polonization" of her territory had been raised higher than ever before. Defeat was the harder for Poland to bear because, scarcely two months before, the Court had delivered its Opinion regarding the status of Polish warships in Danzig waters. During the same period, moreover, the Warsaw Government was compelled to acknowledge the obligation to utilize the port of Danzig; while her efforts to secure closer control of the Danzig customs administration brought her nothing save a series of juridical reverses at the hands of the High Commissioner and the League of Nations.⁶⁶

The League Council adopted the Advisory Opinion at its meeting of February 6, 1932, and sent it to the High Commissioner for his information.⁶⁷ Matters remained unsettled during the summer and fall of that year. Toward the end of the year the two governments finally agreed to accept the conclusions of the Opinion and to enter negotiations under the auspices of the High Commissioner.⁶⁸ Negotiations actually began but were abandoned when the rise of National Socialism early in 1933 led to another crisis in the relations of the two states. The new Nazi government of Danzig, however, soon adopted an unexpected policy of conciliation toward Poland.

On August 5, 1933, the two governments⁶⁹ concluded two Agreements on major issues that had long embittered their mutual relations. In one the Polish government undertook certain obligations toward the full use of the port of Danzig.⁷⁰ Under the terms of the other Danzig granted various rights to the Polish minority which she had previously refused them.⁷¹

AGREEMENT IN 1933 · SUMMARY OF THE PROVISIONS

At last Danzig and Poland agreed on far-reaching provisions concerning Polish education and the use of the Polish language in the Free City. As the questions of education and the native tongue constitute the alpha and omega of all minority demands, the final Danzig-Polish agreement is worth recording in its major details.

⁶⁶ Foster MS, "The Free City of Danzig," p. 278

⁶⁷ *Official Journal*, March 1932, pp. 522-23.

⁶⁸ *Zusammenstellung, 1928-1932*, pp. 186-87.

⁶⁹ Foster MS, p. 279, refers to the strong influence of the High Commissioner, Mr. Helmer Rosting, in bringing the parties together. He feels that "the successful outcome of their negotiations is to be attributed not least of all to his force of personality and powers of persuasion."

⁷⁰ See above, pp. 136-37, and *Zusammenstellung, 1933-1934*, pp. 220-39.

⁷¹ *Ibid.*, pp. 270-88. This agreement was concluded on August 5 but was signed on September 18, 1933, and therefore is often referred to as of the later date. [Crusen, pp. 473-88.]

Public elementary schools using Polish as the language of instruction were to be established for groups of children, numbering as many as forty, who were of Danzig nationality and Polish origin or speech. The children of Polish nationals and other persons of Polish origin or speech were to be admitted to these schools on a liberal basis.

Religious instruction in the Polish language was to be provided in the German public elementary schools for all groups of at least twelve children, as were special courses in the Polish language. The expense was to be borne by Polish individuals or organizations.

The public schools using Polish as the language of instruction were to constitute independent school units under their own administration. They were to be maintained and directed according to the same principles as the German schools and to benefit to the same extent from all appropriations for public education.

If these public schools and special classes lost enrollment below certain specified norms (fewer than forty children in three consecutive years, and fewer than six, respectively), they could be continued by interested persons or organizations as private schools, enjoying facilities in regard to the use of classrooms and educational facilities previously used.

Teachers in these schools and classes had to possess a thorough knowledge of the Polish language and were to be persons preferably of Polish origin or speech. Teaching certificates gained in Poland were to be recognized as qualifying for teaching in these schools. Teachers of Polish nationality could be required to acquire Danzig citizenship.

Only textbooks in the Polish language were to be used; they could not contain materials offensive to Polish nationals.⁷²

Private Polish schools of any type and educational level could be established and maintained at private expense, provided that they were not inferior to the public schools, that they did not contribute

⁷² See Article 107 of the Danzig Constitution which provides that in public school instruction "care shall be taken not to offend the susceptibilities of those holding different opinions." The practical effect of this constitutional provision was of little value under a National Socialist administration except in so far as its action would be dictated by its early conciliatory policy toward Poland.

In his article, "Danzig als Musterstaat des Minderheitenschutzes," *Zeitschrift für osteuropäisches Recht* (Neue Folge, I [1934] 296-313), Dr. Georg Crusen points out that the Polish public schools established in Danzig under this agreement are public schools of the Free City and as such are subject to the pertinent laws and regulations, including Articles 102-8 of the Constitution (see his references to the pertinent Danzig laws). The teachers and administrators in these schools are also subject to Danzig laws. They may apply for membership in the National Socialist Lehrerbund, or teachers' association but, unlike the teachers in the German-language schools, are not members of it by legal decree.

to a separation of pupils and students according to the status of their parents, and that no teaching "is directed against the Free City of Danzig."⁷³ On the contrary, a sentiment of attachment to Danzig must be cultivated." (Article 10). If the education provided in these private schools corresponded to that in the public schools of the Free City, the Danzig authorities were to recognize their diplomas.⁷⁴

Special classes conducted in the Polish language were to be established, under certain conditions, in the continuation and trade schools.

Polish nationals and other persons, etc., were to receive the same treatment at the *Technische Hochschule* as Danzig students of German nationality.⁷⁵

Danzig agreed to acknowledge the validity of certificates and diplomas issued by Polish secondary schools and colleges, and not to raise educational objections to the exercise of vocations and professions to which these certificates and diplomas entitled the holders.⁷⁶ This provision also referred to certificates issued by associations of artisans and other vocational groups. Polish law diplomas were to be recognized on condition that the holder passed supplementary courses in Danzig law.

It was provided further that this provision should "in no way affect the right of the Free City to regulate, under the Constitution and the Agreements and Conventions in force, admission to the Danzig labor market in all trades and professions" (Article 16) ⁷⁷

⁷³ See reference in n 72 to Article 107 of the Danzig Constitution.

⁷⁴ A Polish request of long standing was met when such official recognition (*Staatliche Anerkennung*) was granted to the Polish *Privatgymnasium*, see Crusen, *op. cit.*, p. 304. Private schools also are subject to Danzig school laws (*ibid.*).

⁷⁵ According to Foster MS, "The Free City of Danzig," p. 280, n. 1, the Technische Hochschule had hitherto refused to grant diplomas to Polish nationals and other persons of Polish origin or speech, not citizens of Danzig. Crusen states that several hundred Polish students were enrolled at that institution—see his "Minderheitenschutz," p. 305.

The Danzig Government immediately ordered the Hochschule to allow the Polish student associations to post their bulletins in the Polish language (instead of in German, as formerly required) and not to discriminate between German and Polish student associations on public occasions of the Hochschule; see Appendix to the Agreement (*Zusammenstellung, 1933 and 1934*, p. 288).

⁷⁶ This provision referred to an old Polish complaint. Under its terms, physicians and veterinarians, music teachers, etc., in Danzig, who held Polish diplomas could designate themselves as "examined and admitted to practice by the state" (*geprüft und staatlich zugelassen*), which they had not been allowed to do in the past. Crusen, *op. cit.*, p. 306, points out that in some cases Danzig nationality was an express prerequisite and that the Danzig government would decide which Polish institutions of higher learning were to be considered equal to Danzig and German institutions.

⁷⁷ This provision allowed the Danzig government to refuse permission to practice to graduates of a Polish university, not only for the same reasons as the holder

Danzig further guaranteed the free use of the Polish language to all Polish-speaking persons, regardless of nationality, in personal, economic, and social relations, including the press, publications of any kind, in private and public meetings, and in communications with the judicial administrative authorities, municipal as well as state.⁷⁸ These provisions "must be interpreted in a reasonable manner and shall not imply any obligation on the part of the Free City to maintain a bilingual administration" (Article 17).⁷⁹

Both Danzig nationals employed by the Polish authorities and public services and persons of Polish origin or speech (employed by the government of Danzig) were to enjoy complete liberty in regard to the choice of schools to be attended by their children. No influence was to be exercised on them by the respective employing authorities, and they were not to suffer any disadvantages in their employment because of their choice of schools.

QUID PRO QUO

In the Agreement which we have just described⁸⁰ at some length, the Free City of Danzig voluntarily granted to the Polish minority a number of rights which it had bitterly contested for more than a decade. The special privileges in regard to Polish education and the use of the Polish language went considerably beyond those specified by the Advisory Opinion of February 4, 1932.

The fact was, of course, that the settlement of the Polish minority question did not stand by itself—Danzig and Warsaw also agreed on the full utilization of the port of Danzig, on the same day. Poland thus gave ground in the economic field to gain cultural concessions, while for Danzig the situation was the other way around.⁸¹

of a German or Danzig diploma but also because of his foreign citizenship (*Crusen*, "Danzig als Musterstaat des Minderheitenschutzes," *Zeitschrift für osteuropäisches Recht*, pp. 296-313).

⁷⁸ *Crusen*, *ibid.*, p. 309, claims that this provision does not prevent parliamentary and communal institutions from admitting German exclusively as the language of communication. He points out that the Rules of Order (*Geschäftsordnung*, text in *Lewinski and Wagner, Danziger Staats- und Völkerrecht*, p. 94) of the Danzig *Volkstag* do not refer to the language question and, therefore, imply that the official German language will be used. See *Crusen*, *op. cit.*, pp. 308-309, for details concerning the application of this provision to legal, court, and some other practices.

⁷⁹ *Crusen*, *op. cit.*, p. 312, points out "to the reader not familiar with the situation in Danzig" that the Free City does not have street names or publications of laws and regulations in two languages.

⁸⁰ Text in *Zusammenstellung, 1933 and 1934*, pp. 270-88.

⁸¹ *Georg Crusen*, "Der neue Kurs in der Freien Stadt Danzig," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 1936, p. 72.

Naturally, other factors entered into the picture. Rauschnig, the first National Socialist President of the Danzig Senate, apparently was a sincere believer in the possibility of a rapprochement with Poland, and the Nazi party in the Free City in general was willing to support Hitler's policy of keeping his hands free in the East.⁸²

On the other side it should be remembered that Warsaw had just suffered several serious setbacks in her Danzig policy at the hands of the World Court and the High Commissioner and the Council of the League of Nations. All three international organs had sided against her in regard to the minority question, to Polish warships in Danzig, to Warsaw's obligation to utilize the port of the Free City, and to her efforts to tighten her control over the Danzig customs administration. The Polish Foreign Minister, Colonel Beck, decided to grant to Danzig the economic rights which had been denied her under previous, non-Nazi administrations. Subsequently it was agreed that all future differences over Danzig would be settled directly, without recourse to the League of Nations,⁸³ thus strengthening the hands of Hitler against the Geneva institution.

⁸² Leonhardt, *Nazi Conquest of Danzig*, p. 64.

⁸³ Georg Crusen, "Die Beziehungen der Freien Stadt Danzig zu Polen seit der Übernahme der Regierung durch den Nationalsozialismus," *Zeitschrift für Völkerrecht*, 1935, p. 43

SUMMARY AND CONCLUSIONS

The establishment of Danzig and its environs as a Free City was a complicated compromise resorted to by the Big Four when no simple solution promised to show the way out of the Danzig dilemma.

THE CONFLICT OF TWO PRINCIPLES

The Principal Allied and Associated Powers wished first of all to give the new Poland the *free and secure access to the sea* that had been promised her in the thirteenth of Wilson's Fourteen Points. At the same time, impressed by Lloyd George's warning, they did not dare violate too flagrantly the *right of self-determination of a people* by granting the Polish demand for the annexation of the thoroughly German city of Danzig.¹ In the words of the World Court on a later occasion, "The separation of Danzig from Germany was contrary to the wishes of the German people. Almost the whole of the population of that city was German; and the Peace Conference, in order to assure Poland free and secure access to the sea, decided to make Danzig a Free City without incorporating it into Poland."²

As Mrs. Catherine Snell Crary points out, the answer to the question, "Why was the Free City created?"

lies in the records of the peacemakers at Paris. When Wilson stated in his Thirteenth Point the necessity for giving the new Poland a free and secure access to the sea, it seems that he had in mind an internationalized Vistula with a free port or ports at Danzig and elsewhere, and that he did not envisage running a Polish corridor between East Prussia and the rest of Germany. The proponents of the Polish cause played up the idea of territorial access to the sea so successfully that the peacemakers accepted the Corridor plan. At first it was anticipated that this corridor should include Danzig, but when Lloyd George suddenly and dramatically raised objections to making a ninety percent German city Polish and brought about a crisis, concessions had to be made. Thus the Free City of Danzig was established as a compromise solution to terminate the deadlock precipitated by Lloyd George's attitude

Dr. Crary continues:

In preventing its incorporation into Poland, the peacemakers thought they were doing justice to the principle of self-determination, yet the

¹ See above, "Danzig at the Peace Conference," pp. 35-60.

² Advisory Opinion, *Polish Nationals*, pp. 27-28.

wishes of the inhabitants in question were never consulted. True, the Danzigers did not want to be Polish, but they also did not want to leave the fatherland.

The problem in short was this. Granted that the Corridor was to be set up, would it be better for Danzig to be included in Poland or to be attached to East Prussia, or to be a free city?

To the Danzigers the first solution was out of the question, yet the second would have meant a speedy economic ruination, since Danzig was the seaport of the Polish hinterland. Had Danzig been left within the frontiers of East Prussia, the Poles would have built their own port even sooner than they did and left Danzig in an even worse state of economic depression. The Free City solution seemed to be the most satisfactory compromise between Danzig's desires to be politically German and yet economically to retain the trade of the Polish hinterland.³

Still, the result was far from pleasing to the three parties concerned. Germany did not renounce her claim to the lost territory; the Danzigers cultivated the German character of the city in anticipation of their return to the Fatherland; and Poland never yielded in her determination to make Danzig a part of her territory.

The Principal Powers themselves foresaw that the future promised to be full of difficulties. In an attempt to make the compromise work they provided an intricate arrangement—first, for the preservation of Danzig's internal and external position; second, for a special and close relationship between Danzig and Poland; and, third, for League of Nations machinery for the settlement of any and all disputes arising between the two states.

THE STRUCTURE AND STATUS OF THE FREE CITY THE ESTABLISHMENT OF THE FREE CITY⁴

Articles 100 to 108 of the Treaty of Versailles dealt in brief and somewhat general terms with the future of the Free City of Danzig, providing for her establishment and for her special relationship with Poland and the League of Nations. Danzig's domestic life—her Constitution, laws, and political development—showed the strong and at times dominating influence of international factors, accruing variously from the Free City's close relationship with Poland, her close connection with the League of Nations, and her firm endeavor not to cut the ties that bound her to the Fatherland.

When the Treaty of Versailles went into effect on January 10,

³ Catherine Snell Crary, "The Free City of Danzig" (doctoral dissertation, Radcliffe College Library, unpublished, 1934), pp. 1-2.

⁴ See above, "The Establishment of the Free City," pp. 61-76.

1919, the sovereignty over Danzig passed from Germany into the hands of the Principal Allied and Associated Powers. After a period of occupation by British and French troops and of Allied government through the Conference of Ambassadors, Danzig was constituted a Free City on November 15, 1920. At this moment, Allied condominium over Danzig came to an end. On the same day, the Convention of Paris went into effect. Negotiated by the Conference of Ambassadors and submitted to Danzig and Poland for signature on the dotted line, it regulated their respective rights and obligations.

THE FREE CITY'S CONSTITUTION AND STRUCTURE
OF GOVERNMENT⁵

Meanwhile elections had been held for a Constituent Assembly, which drafted and adopted a Constitution. It was amended in certain respects upon the insistence of the League Council, which subsequently approved it and placed it under its guaranty.

The constitutional provisions for the structure of the Danzig government were similar to those of the Free and Hanseatic Towns of Bremen, Hamburg, and especially, Luebeck. Paragraph after paragraph, and article after article, were taken over literally from the constitutions of Luebeck and Weimar.

Under its organic law the Free City had a coat of arms and a state and commercial flag. The sovereign power was vested in the people. The official language was German, but the Polish-speaking portion of the population was granted free racial development. The Popular Assembly was elected for four years by universal, equal, direct, and secret suffrage, on the basis of proportional representation. The Senate, consisting of a president, a vice-president, and ten senators, was elected by the Assembly for an indefinite period and was dependent on its confidence. All laws had to receive the approval of both houses. The judicial system of the Free City was headed by a Supreme Court. For purposes of local government the Free City was subdivided into a number of areas. Amendments to the Constitution could be adopted by the Assembly or by referendum. They could come into force only after they had been approved by the League of Nations.

DANZIG'S INTERNATIONAL POSITION

Internationally, the Free City was a state under international law; her rights as a state were restricted by treaty agreement in favor

⁵ See above, "The Establishment of the Free City," pp. 64-69.

of Poland.⁶ The international position of the Free City was unique in several respects. Its two most characteristic aspects were found in its special relation to Poland and its close connection with the League of Nations.

1. *Poland possessed extensive rights in the Free City* in matters which, under the general rules of international law, are left to the discretion of the individual state. They included the conduct—but not the control—of the foreign relations of the Free City; the control of the customs through a customs union; the ownership and management of the larger part of the railways; and a special system of postal, telephone, and telegraph communications. Poland had the right to import or export without restriction via Danzig, and a specially created Harbor Board had the duty of assuring to Poland the free use and services of the port and waterways for this purpose. Through membership in the Harbor Board Poland possessed an equal voice with Danzig in the control and administration of the port, the waterways and the pertinent properties. Other Polish privileges related to the transshipment of munitions and other war materials and the stay of Polish warships in the port, especially for economic purposes, such as repairs and supplies.

These rights of Poland were based upon provisions of the Treaty of Versailles and the subsequent Convention of Paris, the latter concluded between Danzig and Poland in compliance with the provision of the Peace Treaty and in terms laid down by the Conference of Ambassadors. These treaties further provided for certain rights of the Polish minority in Danzig, which were to correspond to those laid down in the Minority Treaties concluded between the Allied Powers and Poland and certain other states.

2. *The Free City was closely connected with the League of Nations*, which had the varied tasks of safeguarding the democratic character of the government of the Free City and its international existence and of dealing in a decisive manner with disputes arising between Danzig and Poland. In its threefold role, the League (a) approved the Constitution of the Free City and placed it under its guarantee; (b) undertook the protection of the territorial integrity of the demilitarized Free City; and (c) settled the differences arising between the Free City and Poland, acting through a resident High Commissioner and, on appeal, through the Council. The League was given these heavy responsibilities by the Treaty of Versailles and the Convention of Paris.

⁶ See above, "The Status of the Free City under International Law," pp. 228-47.

HOW DID THE FREE CITY ARRANGEMENT WORK?

Any attempt to appraise the Free-City-of-Danzig type of arrangement as a compromise solution between the right of one people to gain access to the sea and that of another to exercise the right of self-determination must consider several major questions. First, did the Free City solution provide Poland with the opportunity for a free and secure access to the sea—in other words, were the Polish rights sufficient (and pertinent) for the purpose? Second, was the League of Nations effective in its role as guarantor of the Free City's Constitution and as protector of its territorial integrity? Third, were the treaty provisions for the settlement of disputes over these rights and privileges sufficient?

POLISH RIGHTS IN DANZIG: EXTENT, EFFECTIVENESS,
AND PERTINENCY

As has been pointed out, Danzig and Poland were unlike in size, power, desires, and purposes but were expected to have very close relations with each other. A complicated relationship was therefore built up between them, based on a few provisions of the Treaty of Versailles, the Convention of Paris, and many later agreements, as well as on numerous decisions of the High Commissioner and the Council of the League of Nations.

1. *The Foreign Relations of the Free City.*⁷—Poland was to undertake the conduct of the foreign relations of the Free City as well as the diplomatic protection of Danzig citizens in foreign countries. A Polish diplomatic representative was stationed in the Free City to serve as the intermediary between the two governments. It appears that the purpose of this provision was to make Poland's access to the sea more secure by making it impossible for the Free City to engage in diplomatic negotiations and intercourse without the knowledge of Poland and possibly against her just objections but without imposing detrimental restrictions upon Danzig. In the words of the World Court, in 1930:

It is now common ground between Poland and the Free City that the rights of Poland as regards the conduct of the foreign relations of the Free City are not absolute. The Polish Government is not entitled to impose a policy on the Free City nor to take any step in connection with the foreign relations of the Free City, against its will.

On the other hand, the Free City cannot call upon Poland to take any step in connection with the foreign relations of the Free City which are opposed to her own policy

⁷ See above, "The Conduct of Danzig's Foreign Relations," pp. 89-114.

The result is, that, as regards the foreign relations of the Free City, neither Poland nor the Free City are completely masters of the situation. The Free City is entitled to care for her own interests and to see that nothing is done which is prejudicial to them. Poland is entitled to care for her own interests and to refuse to take any action which would be prejudicial to them.⁸

The Court's statement of the respective rights of Danzig and Poland in the conduct of the foreign relations of the Free City gives some hints of the complications encountered in their application. It was particularly valuable to Danzig from a defensive point of view, as it determined her rights as a matter of principle. But Poland still enjoyed great advantages in actual practice because her actions, or refusals to act, could establish facts or situations which remained in effect unless or until negated by the decision of the High Commissioner or the Council of the League, usually after a considerable period of time. In the meantime, Danzig was unable to proceed through regular diplomatic channels, since Poland could hold up Danzig communications. On occasion, Poland's action could also result in a *fait accompli* which either could not be undone at all or whose final undoing proved valueless because of the lapse of time.

To some extent Poland shared this uncertainty, since her own actions and policies remained subject to veto by the High Commissioner or the League Council, a veto which was exercised on several occasions.

Poland also could—and at least in the years of the Nazi administration in Danzig did—suffer from the fact that a recalcitrant Senate would communicate with Germany directly, without sending communications through Polish channels. The Free City could easily argue to her own satisfaction that for Danzig to correspond with Berlin via Warsaw, or even to be kept from sending such communications, was somewhat less than rational.

It appears that Poland did not gain fundamentally in regard to a free and secure access to the sea by her treaty right to conduct Danzig's foreign relations. On the other hand, some bitter battles were fought between the two states over this question, which fact did not make for better relations, diplomatic, economic, or otherwise.

2. *The Danzig-Polish Harbor Board*⁹—The Principal Allied and Associated Powers established a Harbor Board and assigned to it the control, administration, and exploitation of the port and the waterways of Danzig, of the railways especially serving the port, and

⁸ *Collection of Advisory Opinions*, Series B, No. 18, p. 13.

⁹ See above, "The Danzig-Polish Harbor Board," pp. 115-29

of all property and establishments employed in such exploitation. The Harbor Board was given the duty of assuring to Poland the free use and service without any restrictions, and, so far as might be necessary for Polish imports and exports, of the port and the various means of communications just mentioned, also to take all necessary measures to assure the development and improvement of the port to meet all the requirements of this traffic.

The Board was composed of five Polish and five Danzig commissioners chosen by the Polish government and the Free City, respectively, from representatives of the economic interests of the two states. Its president was to be chosen by agreement between the two governments—provided such agreement could be reached. In case no president was thus chosen within a certain time limit, the League Council was to appoint a president of Swiss nationality. The members of the Board enjoyed diplomatic privileges in Danzig and Poland, respectively, as did its president in both states.

The Harbor Board was a compromise creation, the Allies having found that the Polish demands for the "free use and service" of the port were strongly opposed to the Danzig demands as a "Free" City. According to High Commissioner Haking's decision, it was "the duty of the Board to further and reconcile by the means at its disposal the economic interests of both parties in the administration of and exploitation of the Port of Danzig."¹⁰

The port and waterways of Danzig were a part of the territory of the Free City and were consequently subject to her sovereignty, although the Harbor Board enjoyed a special position. It possessed a special entity and status separate from the two states. It was not in any respect subordinate either to the Free City or to Poland. The interests of the two governments were safeguarded by their respective delegations on the Board and by the right of each government to appeal decisions of the Board to the High Commissioner.

Any bylaws considered necessary by the Board in the interest of the port were given legislative effect by the Senate of the Free City, provided they were not contrary to the Constitution or the laws of the Free City. Any offenses against such regulations were tried in the Danzig courts. The Board was further entitled to make certain other demands upon Danzig, for instance, in regard to expropriations.

Prior to 1933 the necessary harbor police were furnished to the Harbord Board by the Senate; they remained a part of the police of

¹⁰ Decision of April 29, 1923 (*Decisions, 1923*, pp. 7-8).

the Free City but were placed under the direct control of the Harbor Board. In 1933 Danzig decided to police the port directly, by her own force and under the orders of the Danzig authorities. In 1934 the Free City and Poland agreed on a set of harbor regulations, and organized a harbor police force employed by the Harbor Board, consisting of an equal number of Danzigers and Poles, nominated by the respective delegations on the Board, and commanded by the port's chief pilot. The Free City granted them the character of an auxiliary police.

While the Board owned a considerable amount of property formerly belonging to the German Reich, it also possessed the right to acquire or lease such additional movable and immovable property in the territory of the Free City as it might deem necessary for its functions.

The Board had the right to collect all dues, receipts, etc., arising from the administration of the port, waterways, and railways under its control, as well as to defray all costs of upkeep, control and exploitation, improvement, and development. All profits and losses were divided between the Free City and Poland in certain proportions. The Board had the right to contract loans.

Polish ships in the port were subject to the administration of the Harbor Board the same as all other vessels, Danzig or foreign.

Because of the practical importance—both administratively and financially—of having only one administrative system for such a small railway organization, the High Commissioner decided that the Harbor Board, while retaining ownership of the railways allotted to it, was to make use of the existing Polish Railway Administration for carrying out the Harbor Board's work of control, administration, and exploitation. Three delegates appointed by the Harbor Board were attached to the Polish Railway Administration to convey the Board's wishes and requirements, while the Railway Administration in turn was to do its utmost to fulfill them. The latter also collected all revenues from the railways belonging to the Harbor Board and defrayed all expenses of upkeep, control, and improvement.

It appears that the Harbor Board organization was workable in spite of certain controversies over the control and exploitation of the harbor. The establishment of the Harbor Board was a step in the right direction—toward international administration of a disputed area that was characterized by economic and technical problems adversely affected by intense national considerations. The Board deserves further study and examination, as it seems to have been the best-working organ of the Allied endeavor to assure Poland's access

to the sea via this port and created the least commotion in the relations of the two states or in public sentiment.

An advisable change—if the Board had continued—would have been the inclusion of neutral members on the Board, that is, of people who would be neither Danzigers nor Poles. They could have added the experience of work in other ports, as well as a more objective outlook to supplement those of the representatives chosen by the two respective governments. In case international Harbor Boards should be set up elsewhere, an occasional exchange of board members might be feasible and advantageous.

3. *The utilization of the port of Danzig; the role of Gdynia.*¹¹—Gdynia did not come into the picture as a competitor of Danzig until the middle 1920's, but by 1933 she had outdistanced the ancient port in the volume of goods handled. In the fall of that year a broad agreement was concluded between the Nazi administration and Warsaw which provided that in the future Danzig would obtain equal participation in Poland's sea-borne trade. Poland undertook to prevent any further decrease in the traffic passing through Danzig, assuring her of equal treatment with Gdynia in the matter of import permits and customs facilities.

The question whether the construction of a new and large port at Gdynia was justified cannot be answered with a simple yes or no, as the problem was interwoven with a maze of political and economic considerations. The League Council decided that Poland was bound by the Treaty of Versailles to make full use of the port of Danzig for her sea-borne trade, while Danzig's demand for priority over Gdynia in the event that the total volume of traffic should prove insufficient for both ports was accepted only with qualifications.

The best conclusion—once Gdynia was constructed—seems to be contained in the findings of the League Commission of Experts. It declared that Poland was not entitled to benefit Gdynia to the injury of Danzig by means of special administrative measures, that port dues in Gdynia must be approximated to those in Danzig (they had been lower), and that goods produced by the Polish state as well as imports designed for the Polish state, including state monopolies, must pass through Danzig. These goods included tobacco, timber from the state forests, certain grain exports, nitrates, etc. The valuable immigrant traffic was also listed. Otherwise trade should be left free to choose between the two ports.

4. *The railways.*¹²—The railway system within the Free City

¹¹ See "Gdynia—Rise of a Rival," pp. 130–38.

¹² See "Poland's Economic Rights. The Railways," pp. 139–51.

was divided into three parts: the broad-gauged railways were the property of Poland and subject to her administration; the broad-gauged railways especially serving the port were owned by the Harbor Board but administered by the Polish Railway Administration; the tramways and the narrow-gauge railways primarily serving the needs of the Free City were its property and were administered by it.

Legally there were thus three owners of railway property; administratively, there were two parties—Poland and the Free City. Actually, it should be remembered, broad-gauge and narrow-gauge railway and streetcar systems are not ordinarily under the same management anywhere. The Danzig railway administration situation was, therefore, not as complicated as at first sight it appeared to be.

It appears desirable from the economic and technical viewpoints to have small railway systems joined with larger ones. The German railways ran the Luxembourg lines after 1872, and the French managed the railways of the Saar territory up to 1935. The primary question is, therefore, whether the railways in Danzig territory should have been run by Poland or by Germany. Considering that Poland had the more direct and vital interest in railway communications with the port of Danzig, she would seem to have been the logical choice for administering the railways.

The vital interests of Danzig and the Harbor Board were involved also in the administration of the railway system, especially when the Polish Railway Administration was in a position to build a competing line to Gdynia without touching Danzig territory.

Therefore, it seems that it would have been practicable and desirable to have the Harbor Board delegates already attached to the Polish Railway Administration represent also the Free City interests not directly touching upon port questions. This could have been done especially if, as suggested above under (2), the Harbor Board had included "neutral" as well as Danzig and Polish representatives.

5. *Postal and other communications*¹³—Poland had the right to establish in the port of Danzig a postal, telegraph, and telephone service for direct connection with Poland as part of Poland's access to the sea. Communications via the port between Poland and foreign countries were included in this service.

The system included a post office, two buildings leased from the Harbor Board for a sorting office for overseas parcel post, a mail-sorting office in the principal railway station, special telegraph and telephone lines, a number of street mailboxes in the port area, and a

¹³ See above, "Poland's Economic Rights. Postal and Other Communications," pp. 152-68.

system of collecting and delivering postal matter. The "port area," in the postal sense, included not only the waters and the waterside technical plant but also the larger part of the downtown business district. This system of communications was open for the use of the general public and was not confined to Polish authorities and officials. (All other postal, telegraphic, and telephonic communications within the territory of the Free City and communications between it and foreign countries were the concern of the Free City.)

These communications fall into the category of natural monopolies. No claim has been advanced that the system existing in the Free City (all under the post-office management) was either insufficient in size or inefficient in practice. As the result of the uneconomic duplication of efforts, the Danzig postal system lost a great sum of money—when state finances were already overburdened—while the Polish system must have required large subsidies. No justification is found for providing private citizens or commercial concerns, Polish or otherwise, with double communications facilities. If Poland's access to the sea required special facilities for Polish officials stationed in Danzig, additional arrangements—such as leased wires, sealed mail sacks, or even special postal cars could have been provided. In the fall of 1936 a Polish diplomatic official in Danzig complained to the writer that the Nazis were tapping Polish wires. If they were—and nobody would be surprised to find the complaint justified—it merely shows that duplication of facilities did not give Poland an additional advantage. If the special communications system was intended merely to give Poland additional occasion for official activities in Danzig, it did not serve the purpose of Poland's access to the sea; rather it handicapped it because of the ill-will caused by the system—and its daily evidence through mailboxes in the Polish colors and mailmen in Polish uniforms among the local population.

6. *The Customs Union*.¹⁴—Poland and the Free City formed one customs area, subject to Polish customs legislation and tariffs. The Free City was in charge of the customs administration in its own territory, under the general direction of the Polish central customs authorities, acting through officials recruited, appointed, supervised, and paid by Danzig. Warsaw supervised this administrative set-up through Polish customs inspectors who were "co-ordinated" with the Danzig customs administration but who were not entitled to give orders to the Danzig customs officials. The Danzig customs adminis-

¹⁴ See above, "The Customs Union," pp. 169-91.

tration was responsible to Poland for the execution of the Polish customs laws.

Poland was free to choose her own tariff policy. At the same time, she had certain obligations toward the smaller partner in the customs union, and the Free City had some positive privileges such as the right to export the products of her own industry, agriculture, and manufacture, in spite of general Polish export prohibitions.

The Free City shared in the customs receipts on the basis of a complicated formula which took into account gross customs receipts, the size of the respective populations, and the average consumption of imported goods by Poles and Danzigers. For the first three years, for instance, Danzig's share in the customs revenue was about eight per cent (her population being 1.3 per cent of that of Poland), as it was estimated that on a per capita basis Danzigers consumed about six times as much, in value, of imported goods, as the inhabitants of Poland. Later, Danzig was guaranteed by Poland an annual minimum share and allowed a certain maximum.

The effective operation of the Customs Union was disturbed by a number of factors. The economic results were deeply affected by the extended Polish-German trade war, as well as by Poland's difficulties with Russia, which blocked the development of her two most logical markets; by economic strife between Poland and Danzig; and by the effects of the upset world economy. Both Poland and Danzig suffered from inflation, at different times and to different degrees.

Even if German-Polish and Danzig-Polish relations had been generally friendly during these years, certain definite conditions and factors would still have seriously impeded the beneficial operation of the customs arrangement. Organizationally, the customs administration was handicapped by divided authority, as it was officered by Danzig officials under the control of their Free City superiors but was supervised by Polish customs inspectors. Economically, the arrangement was an expensive affair for Danzig, as her territory was small and her customs frontier proportionately very long. Her revenue from this source was large and important; but it came out of Danzig pockets, constituting an indirect tax on her residents. Agriculture in the Free City was handicapped, as the cheaper Polish food-stuffs arriving duty-free depressed local prices. On the other hand, much machinery and repair parts for intensive cultivation came from Germany and were subject to the high Polish tariff. Business complained about rather frequent changes in the customs duties by Warsaw administrative decree, on occasion amounting to 50 and 100 per cent and in 1932 to as much as 300 and 400 per cent.

Poland was bent upon a policy of economic self-sufficiency supported by high protectionist tariffs and other import restrictions. Intent upon building up her own production, she was anxious to receive less from other states, including Danzig. For the same reason, Poland acted to restrict Danzig's importation of raw materials or partly finished goods.

Furthermore, there was the double handicap of Poland's endeavor to expand her rights at the expense of the Free City as well as Danzig's tendency to seek to contract her obligations toward Poland. Further factors complicating the life of the customs union were the differences in size and economic strength and character of the two states. One was small and primarily urban and commercial-industrial in economic character, technically advanced, and accustomed to a high standard of living; the other was of vast size, preponderantly agricultural, with desperate poverty in large parts of the country, and less advanced in farming and marketing methods. Finally, the use of different currencies added another complication.

7. *Polish military rights.*¹⁵—Poland was not authorized to establish a military or naval base at Danzig. (The protection of the Free City was entrusted to the League of Nations, as described below.) Poland had the right to import munitions and other war materials via Danzig as well as to establish a munitions depot on the Westerplatte peninsula for the unloading, transshipments, and temporary storage of war materials and explosives, subject to certain conditions. She was allowed to maintain an armed guard of eighty-six officers and men at the depot. Under an intricate set of provisions the Westerplatte area normally remained open for general commercial purposes. Customs and police functions were carried out in this area in the same manner as in the other parts of the port.

After the construction of the large port of Gdynia there was hardly any need for unloading ammunition in Danzig. Apparently, continued unloading was rather a case of Poland holding on to a right once gained in the Free City. If for any reason Gdynia had been insufficient at any time for the unloading and transshipment of ammunition, the Harbor Board could have been called upon to provide additional facilities in Danzig, including armed guards taken from the ranks of the Harbor Police.

Under such an arrangement Poland would have been assured of her imports by sea of war materials. At the same time, the presence of a permanent foreign munitions depot and of a foreign armed force

¹⁵ See above, "Poland's Military Rights," pp. 192-212.

would have been unnecessary and a deeply irritating factor in Danzig-Polish relations would have been eliminated.

8. *Polish naval rights.*¹⁶—In addition to the privileges generally allowed to visiting foreign men-of-war, Danzig granted further facilities to Polish warships and other noncommercial vessels—especially when calling for economic reasons such as supplies or repairs. They concerned the number of ships visiting at any one time, their length of stay, sanitary regulations, shore patrols, and the like.

This arrangement was based on a common-sense agreement finally reached in 1932. It was of practical importance to both parties—to Poland to the extent that repair facilities were lacking in Gdynia while they were available in Danzig, to the Free City in that the settlement had definite economic advantages for Danzig's industry and trade and in addition, one might presume, would keep Poland from duplicating ship-repair facilities in Gdynia in competition with those long established in Danzig. At the same time the agreement did not violate the status of the Free City.

9. *Status of Polish officials.*¹⁷—In connection with the rights and privileges enjoyed by Poland in the Free City, a large number of Polish officials, employees, and workmen were stationed in Danzig. The Polish officials were of various types, including the diplomatic representative and his staff, inspectors attached to the customs administration, officials of the railways and the special postal, telegraph, and telephone system, and others connected with various agencies ranging from passport officials to foreign-trade officers, meteorological observers, radio technicians, and certain military personnel. (The Harbor Board was not, of course, a Polish government agency, although one-half of its membership represented Poland.)

In general the special rights enjoyed by the Polish officials stationed in the Free City were dependent on the nature of their functions and purposes as agreed upon by the two governments. There is some question whether it was necessary to have as many as sixty persons enjoy diplomatic immunities as members of the staff of the diplomatic representative; but, on the whole, the Polish officials enjoyed immunity only to the extent necessary for their defined purposes.

10. *Status of Polish government property.*¹⁸—Under the provisions of the Treaty of Versailles and the Convention of Paris, Po-

¹⁶ See above, "Poland's Naval Rights," pp. 213-27.

¹⁷ See above, "The Status of Polish Officials and Government Property in Danzig," pp. 248-58.

¹⁸ *Ibid.*

land received a certain amount of property in the Free City together with the right to acquire additional property under certain conditions. Polish government property acquired by treaty, purchase, or lease included buildings, land, and equipment connected with the railways, the postal, telegraph, and telephone system, a building for the diplomatic representative, a meteorological and a radio station, and the munitions depot in the port. The status of the munitions depot has already been described.¹⁹

In general terms, the status of Polish government property in the territory of the Free City was as follows: The railways and related property were exempt from taxation. So were all other buildings which were used for official purposes provided for in the treaties in force as long as they were used for these purposes. (Polish merchant ships were neither tax-exempt nor free from the payment of fees imposed by the Harbor Board.) No movable or immovable properties of the Polish government were subject to Danzig jurisdiction except in certain defined cases.

The Polish Railway Administration, having no sovereign rights within the territory of the Free City, had to conform to the laws of the state. Within those limits, the passing of bylaws for this railway system was entirely within its discretion. (At the same time, Danzig had no right to make laws which would place the Polish Railway Administration in a position where it would be unable to administer, control, and exploit this railway system.)

The Polish government archives and offices were inviolable (Polish merchant ships were not exempt from regulations imposed by the Harbor Board.)

In general, the special rights enjoyed by Polish government property in the Free City were pertinent to their purposes, as laid down in treaty provisions and special agreements, and did not violate the basic rights of the Free City.

11. *Rights of the Polish minority.*²⁰—By 1934, when the final minority settlement was reached by Danzig and Poland, some 25,000 people of Polish speech lived in Danzig, in a total population of over 400,000. Approximately 7,000 were nationals of Danzig, while most of the others were citizens of Poland.

These persons of Polish origin or speech had the right to keep and cultivate their cultural heritage along the general lines guaranteed to racial, religious, and linguistic minorities in the postwar treaties.

¹⁹ See above, "Polish Military Rights," pp. 204-6.

²⁰ See above, "The Polish Minority Rights," pp. 259-83.

This right of the Polish minority in Danzig was firmly anchored in the Treaty of Versailles, the Convention of Paris, the Constitution of the Free City, and the Agreement of Warsaw. Its specific applications were finally agreed upon by Danzig and Poland in the fall of 1933.

According to them, Danzig granted far-reaching rights to the Polish minority in matters of education and the use of their native tongue, with special reference to the establishment and maintenance of public elementary schools for Polish children, with Polish as the language of instruction. They also related to the selection of teachers and textbooks for these schools, the establishment and maintenance of Polish private schools of any type and educational level, equal treatment for Polish students at the Institute of Technology (*Technische Hochschule*), the validity of Polish certificates and diplomas in Danzig, etc.

Danzig further guaranteed the free use of the Polish language in personal, economic, and social relations, including the press, in publications of any kind, in private and public meetings, and in communications with the judicial and administrative authorities of the Free City, municipal as well as state. (These provisions were not to imply any obligation on the part of Danzig to maintain a bilingual administration.)

Danzig nationals employed by the Polish authorities and services and persons of Polish origin or speech employed by the government of Danzig were to enjoy complete liberty in regard to the choice of schools for their children, without being subjected to any contrary influence by their respective employers or to any disadvantage in their employment.

The extensive rights granted by Danzig in regard to education and the use of the Polish language went considerably beyond those specified as Polish rights in the pertinent Advisory Opinion of the World Court, and were granted by the Free City in return for economic concessions by Poland in connection with the utilization of the port of Danzig. They were also in line with the general policy of Hitler at that time to improve German-Polish relations.

Naturally the concessions granted by the Nazi regime were not more than temporary expedients, intended to serve ulterior purposes. Even so they have a certain value in showing that a nationalistic government can grant extensive rights of a cultural nature if it has a strong inducement to do so, and, secondly, that they can be allowed to a minority in a racially contested area without destroying or endangering its predominant cultural character.

THE ROLE OF THE LEAGUE OF NATIONS: RÉSUMÉ AND APPRAISAL

The role of the League of Nations in regard to the Free City was of a threefold character: It acted as (1) the guarantor of its Constitution, (2) the protector of its territorial integrity, and (3) the mediator and adjudicator of differences and disputes between Danzig and Poland.

1. *The League as guarantor of the Constitution.*²¹—In accordance with the Treaty of Versailles, the Constitution of the Free City was drawn up by the elected representatives of the Free City in agreement with the High Commissioner of the League of Nations and was placed under its guaranty.

In the words of the Rapporteur of the League Council, the guaranty of the Constitution and the protection of the Free City were intimately connected. The fundamental idea was "that the Free City should form in the international organization of Europe a community which must be protected against all undue interference on the part of any country, and which must have its own regular existence."²² The League Council therefore examined the question whether the Constitution provided the necessary guaranties for a stable and peaceable political situation and whether it insured a government which would carry out its duties in accordance with the principles under which the Free City had been constituted and with the obligations imposed upon it by the Treaty of Versailles. It was considered particularly necessary to see whether the Constitution contained germs of disorder, inadequate government, "anarchy," or disregard for international obligations.

Before extending its approval and guaranty the League Council asked the Constituent Assembly of Danzig to revise the proposed text of the Constitution and to provide, *inter alia*: that amendments could not come into force without the consent of the League; that the League had the right to require authentic information at any time from the Danzig government on the public affairs of Danzig; that the Constitution should forbid the use of the Free City as a military or naval base, the erection of fortifications, and the manufacture of munitions or war materials in its territory except with the special consent of the League. The League further insisted on a four-year, rather than on the proposed twelve-year, term for the Senate, thus increasing the responsibility of the highest executive authority in the

²¹ See chapter v, "The Threefold Role of the League of Nations"; also Leonhardt, *Nazi Conquest of Danzig*, especially chapter viii, "A Jural Examination of the League's Guaranty for the Danzig Constitution"

²² *Ishii Report*, p. 3.

state to the popularly elected Assembly. The League Council also held that the constitutional life of the Free City must always be in accordance with the terms of its Constitution.

Between 1920 and 1933 Danzig lived up to her international obligations to lead a governmental life in accordance with the principles on which the Free City had been constituted. Her political life conformed closely to the provisions of the Constitution, while the work of the High Commissioner was confined almost entirely to the mediation and adjudication of differences arising between Danzig and Poland. After May 1933, however, violations of the Constitution by the Nazis took place frequently and consistently. The High Commissioner of the League, the Council, especially appointed committees of jurists, and the World Court were kept busy ascertaining the fact, soon obvious to all, that if the Nazis could not amend the Constitution for lack of the required two-thirds majority in the Assembly they would bend, twist, and break it whenever it stood in their way.

While this Nazi process of attrition did excite the attention of the League of Nations, it coincided with a decline in the League's strength. At first the League asserted itself resolutely, but gradually it fell into a state of words and observations. Under the influence of Great Britain's weak policy, and suffering from the impact of repeated blows inflicted upon it in other connections, the League failed in its definite legal obligation to guarantee the democratic provisions of the Constitution of the Free City.²³ As Raymond Leslie Buell has pointed out: "Curiously enough, Poland during this period made no effort to support the authority of the League and acquiesced in the violation of the Danzig constitution"²⁴ on the understanding that Nazi-dominated Danzig would respect certain rights of Poland in the Free City.

Poland's defection from the League was, of course, no encouragement to the Council members to act more firmly, especially since the Polish minority in Danzig failed to join the German democratic opposition to the Nazi forces.²⁵

2. *The League as protector against foreign aggression.*²⁶—The Treaty of Versailles provided that the Free City should be placed under the protection of the League of Nations. The League Council

²³ *Ibid.*, also Mildred S. Wertheimer, "The Nazification of Danzig," *Foreign Policy Reports*, June 1, 1936.

²⁴ *Poland: Key to Europe*, pp. 356-57; see also pp. 332-33.

²⁵ Leonhardt, *Nazi Conquest of Danzig*, pp. 164, 276, 326.

²⁶ See above, p. 88.

reserved on principle the defense of the territory of Danzig to the League, refusing to delegate this function once and for all to Poland in accordance with the wish of the Polish government. However, it accepted the view of the Conference of Ambassadors that Poland was particularly fitted to insure the defense of the Free City against external aggression as well as the maintenance of order in the event that local police should prove insufficient, subject in every case to the consent of the League of Nations or at least, in especially urgent cases, of the High Commissioner. In such a case Polish troops were to be withdrawn as soon as the object in view had been achieved to the satisfaction of the High Commissioner. The organization of the defense of Danzig was to be decided in agreement with the League Council, which also might provide for the collaboration of one or more states, members of the League.

The League of Nations could afford protection to the Free City only when the League was strong. When it showed weakness, as after the invasion of Ethiopia, very little or no efforts to "protect" the Free City effectively could be expected from it. The fault lay less with the League than with some of its leading members. Poland's rapprochement with Hitler—which contributed greatly to the strengthening of Nazi Germany²⁷—of course constituted no inducement to the League powers to exert themselves in favor of Danzig in ways different from those of the benefactor of the Free City arrangement—Poland.

The early defense arrangements made by the League Council had also been weak in other respects. They assumed that if Danzig were attacked, Poland would be strong enough to repel the invader (presumably Germany). They also took it for granted that Polish troops would be withdrawn from the Free City upon orders of the High Commissioner instead of remaining there in imitation of the Vilna or Memel affairs.

The main value of the provisions for the protection of the Free City was negative. They showed how not to act if a similar situation should arise in the future. In that respect the plans of 1921 can be said to have served a good purpose.

3. *The League as adjudicator and mediator of disputes.*²⁸—The Free City arrangement provided for the settlement of *any* differences arising between Danzig and Poland by a resident High Commissioner of the League of Nations, acting at the request of either or

²⁷ Buell, *Poland: Key to Europe*, pp. 332–33.

²⁸ See above, pp. 80–87.

both parties. His decision was subject to appeal by either party to the Council of the League of Nations, and its decision was final.

In the exercise of this judicial task, the High Commissioners made over eighty decisions. The majority of the disputed questions were submitted by Danzig in protest against Polish demands or actions. Some were submitted by both parties. In a number of cases, they were laid in the hands of the High Commissioner, before a serious dispute had arisen, in order to establish the rights of either or both parties. Many decisions were not confined to explanations or elucidations of the existing status but constituted further developments of the treaty relationship between the two states. Most of the cases came up in the early years of 1921 to 1924, partly because the basic but often meager treaty provisions needed to be defined, and partly because in later years the two governments were inclined to favor direct negotiation rather than adjudication.

The majority of the decisions were appealed—23 by Poland, 19 by Danzig, and 14 by both parties. The High Commissioners and the League Council discouraged appeals, but to little avail. The decisions were altered by the Council only four times, and were fully reversed in only one case. Council Resolutions dealt with some twenty cases. Six times the Council requested Advisory Opinions from the World Court, and these formed the basis of subsequent settlements. In a number of cases, the Council availed itself of the advice of a specially appointed committee of legal or other technical experts. Some appeals were withdrawn before the Council had acted upon them, while a good many were disposed of by agreements between Danzig and Poland, following a High Commissioner's decision.

In addition to bearing this heavy judicial burden, the High Commissioners endeavored to bring about agreements between the parties which would obviate the necessity for decisions. Frequently they were successful, if not in Danzig then in Geneva, where conversations between the Polish representative and the President of the Danzig Senate would be held in the Palais des Nations, under the guidance of the High Commissioner, or of the Rapporteur of the Council on Danzig, and with the assistance of the experts of the Administrative Section of the League Secretariat. The joint examination of outstanding differences by these officials repeatedly led to the settlement of appealed disputes before they reached the Council. By 1925 the League Council had set up a standard procedure for mediation through the High Commissioner, to which Danzig and Poland agreed. If he invited either party to discuss the question in

dispute with him, his invitation had to be accepted. If one party made an appeal, he notified the other of the fact, passing the written comments of each back and forth. If the High Commissioner needed independent technical or legal advice, the Secretary-General of the League would provide it, at the expense of the disputants. Both sides would then be informed of the opinions of the experts, as a possible basis for agreement. Agreements reached would be embodied in a "note" and deposited with the Secretariat.

There were additional occasions when the High Commissioner proved helpful in a nonjudicial capacity. Whenever the two governments were not on speaking terms, each could ask him to transmit its communications to the other. The High Commissioner acceded to these requests because it gave him an opportunity to act as an intermediary and to exercise his influence toward obtaining an amicable settlement. At the same time, he was free to refuse to deal with differences not formally submitted to him for decision if he was of the opinion that his intervention was unnecessary or undesirable.

Thus the High Commissioner had a dual role. On certain occasions he was a judge of disputes between Danzig and Poland with power to settle them (subject to appeal). At other times he acted as a mediator and as a permanent resident agent of the League, easily available for the purpose of providing the good offices so often eminently useful for the peaceful settlement of international differences.

THE LESSONS OF THE FREE CITY ARRANGEMENT

The brief history of the Free City was characterized by a number of outstanding facts of international importance.

First, the Free City of Danzig arrangement was new and unique. There was no historical precedent for it, and therefore no experience by which Danzig and Poland could have profited from the very beginning. As it was a compromise on vital matters, it pleased neither side. Both parties accepted it under compulsion, and both needed outside assistance to make it work.

Second, the number of disputes between Danzig and Poland was large, and their conflicts tended to be strong and acrimonious. While the subject matter of their disputes often appeared unimportant to the outsider, questions of legal principle—such as the Free City's independence—were frequently involved, making them vital to the disputants. Existing possibilities for honest disagreement over questions of rights and obligations in their mutual relationship were affected by an atmosphere of suspicion and distrust arising from opposite aims as well as an obvious unwillingness to compromise. An

aggravating factor was the rather general expectation among Germans in the early postwar years that the new Poland was a *Saison-staat* that would not last long because of the alleged Polish inefficiency (*Polnische Wirtschaft*), and that therefore a firm chin would work wonders. Added to it was the common German contempt for Poles, especially prevalent in the Eastern regions. On the other side, matters were not improved by the aggressive nationalist attitude frequently adopted by the Polish government as well as by the tone and character of its many demands upon Danzig, which plainly exceeded the rights granted Poland by the Principal Allied Powers.

While there were periods of amicable relations between the sparing neighbors, in general there was little in the national backgrounds of Danzig and Poland, especially of recent date, that made them particularly desirous of getting along with each other in a more friendly and co-operative way. Instead, there were strong mutual suspicions, distrust, and dislike. To Danzig, Poland appeared to be intent upon making the old and proud city Polish in everything but name, by demanding rights and privileges beyond those granted her by the Principal Allied Powers in 1919 and 1920. In Polish eyes, on the other hand, the Free City was not merely determined to remain German in character and as independent politically and economically as was compatible with the existing treaty provisions; she seemed obstreperous and insistent on curtailing or canceling Polish rights inherent in her free and secure access to the sea. In general, one can say that the establishment of the Free City made the Danzigers bitter without making the Poles happy, and that both governments tended to show an unwillingness to compromise rather than a co-operative desire to clear away difficulties.

On the surface this situation changed when the Nazi administration of Danzig, with the consent of the Hitler regime, and the government of Colonel Beck freely agreed on the settlement of outstanding disputes of vital importance, including the conflicts over the local Polish minority and over Gdynia. While the president of the Senate, Hermann Rauschning, appears to have been sincere in his efforts to improve Danzig-Polish relations, the Nazis as a whole were merely biding their time while effectively neutralizing Poland by protestations of good will and an apparent readiness to settle differences on an amicable basis. Poland, unfortunately, served their purpose and, in the long run, weakened her own position and safety when she agreed that future disputes over Danzig would be settled by direct and bilateral negotiation, without recourse to the League of Nations.

Third, in spite of the numerous, prolonged, and bitter disputes involving certain vital problems and principles and the intense emotional nationalism of which both sides were capable, there was no armed clash over the Danzig situation, no matter how high public feeling ran at times. (No one would seriously claim that the Free City caused the present war, or even that it was the occasion for its outbreak.) This was due primarily to the fact that the office of the High Commissioner of the League of Nations provided a definite and permanent piece of international machinery having decisive authority concerning *all* disputes and differences submitted by *either* of the parties. This international organ for the prevention, mediation, and judicial settlement of disputes between the two governments was on the whole highly successful under trying and difficult conditions, and deserves careful consideration in connection with the future organization of peace in the stormy corners of the world.

Fourth, it appears that the international organization provided for the prevention, mediation, and judicial settlement of disputes could have been still more successful if it had not been handicapped by certain factors: The establishment of the Free City and its relationship with Poland had been prescribed only in a general way in a few provisions of the Treaty of Versailles, which left the exact intentions of the founding Principal Allied Powers vague in important respects, inviting contention between Danzig and Poland. The respective rights and obligations of the two parties were progressively defined in the course of years; but the process was slow, extending through a decade and on some points considerably more. Marked by such documents as the Convention of Paris, the Convention of Warsaw, and the Constitution of the Free City as approved by the League of Nations, it had to be worked out further with the help of numerous decisions of the High Commissioners and the League Council, plus half a dozen Advisory Opinions of the World Court, a number of expert opinions of technical advisers and commissions, and many special agreements between the two states. Much of this painful and time-consuming labor would have been unnecessary if the Principal Allied Powers had been able in 1919 and 1920 to be more definite and clear-cut in the basic provisions establishing the Free City and in determining its relationship to Poland.

There was also room for improvement in the handling of appeals to the League Council. There were occasions when its busy members had to listen for hours to the most tedious details of a Danzig dispute, in spite of the preliminary work done by its Rapporteur and the League Secretariat. A future Council or other organ to handle such

international disputes would need either additional time (meeting perhaps every month), or a system for sifting matters coming before it, more exacting than was the case at Geneva. Another possibility—and, it would seem, a very desirable one—is the establishment of a permanent arbitration commission which would give all its time to the settlement of disputes and differences, having authority to decide nonlegal questions, which the World Court does not possess, but leaving matters of policy to the Council²⁹

The additional problem of increasing and steadying the force back of the League machinery, whether High Commissioner or Council, is a question affecting the entire League organization and should be settled on the general basis rather than in relation to Danzig or a similar unit. The aspect of the Danzig arrangement that is strongly recommended for imitation is the provision that *either* of the two parties could submit *any and all* disputes to the High Commissioner for *final and authoritative settlement*, subject only to appeal to the Council, which, in turn, also had the right and power to act decisively.

CONCLUSION

It is the conclusion of this study that the Free City of Danzig would not have lasted twenty years without a clash of arms if there had been no special League of Nations machinery for the final and authoritative settlement of disputes between Danzig and Poland; also that, defective and deficient as it was, the Free City of Danzig arrangement was better than either of the crude alternatives—leaving Danzig with Germany on the score of self-determination, or handing it over to Poland on the score of access to the sea.

The full story of the Free City of Danzig is valuable because the Danzig dilemma is not unique. It exists wherever the desire of one nation for access to the sea clashes with the national desires or rights of another people. Trieste is an example, and there are others in Europe and South America. The experience of Danzig needs to be studied, pondered, and recalled when the time comes to deal with these problems in a strong and effective way. If the lessons of Danzig, both positive and negative, are heeded, the Free City will not have been a failure.

²⁹ Morrow, *Peace Settlement*, p. 126, n. 2, suggests: "The criticism might perhaps be ventured that appeals from the decisions of the High Commissioner should go to a permanent non-political arbitral body rather than to the Council of the League of Nations."

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APPENDIX

APPENDIX A

EXTRACT FROM THE TREATY OF VERSAILLES

SECTION XI FREE CITY OF DANZIG

ARTICLE 100

Germany renounces in favour of the Principal Allied and Associated Powers all rights and title over the territory comprised within the following limits:

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ARTICLE 101

A Commission composed of three members appointed by the Principal Allied and Associated Powers including a High Commissioner as President, one member appointed by Germany and one member appointed by Poland, shall be constituted within fifteen days of the coming into force of the present Treaty for the purpose of delimiting on the spot the frontier of the territory as described above, taking into account as far as possible the existing communal boundaries.

ARTICLE 102

The Principal Allied and Associated Powers undertake to establish the town of Danzig, together with the rest of the territory described in Article 100, as a Free City. It will be placed under the protection of the League of Nations.

ARTICLE 103

A constitution for the Free City of Danzig shall be drawn up by the duly appointed representatives of the Free City in agreement with a High Commissioner to be appointed by the League of Nations. This constitution shall be placed under the guarantee of the League of Nations.

The High Commissioner will also be entrusted with the duty of dealing in the first instance with all differences arising between Poland and the Free City of Danzig in regard to this treaty or any arrangements or agreements made thereunder.

The High Commissioner shall reside at Danzig.

ARTICLE 104

The Principal Allied and Associated Powers undertake to negotiate a Treaty between the Polish Government and the Free City of Danzig, which shall come into force at the same time as the establishment of the said Free City, with the following objects:

1. To effect the inclusion of the Free City of Danzig within the Polish Customs frontiers, and to establish a free area in the port;
2. To ensure to Poland without any restriction the free use and service of all waterways, docks, basins, wharves and other works within the territory of the Free City necessary for Polish imports and exports;
3. To ensure to Poland the control and administration of the Vistula and of the whole railway system within the Free City, except such street- and other railways as serve primarily the needs of the Free City, and of postal, telegraphic and telephonic communications between Poland and the port of Danzig;
4. To ensure to Poland the right to develop and improve the waterways, docks, basins, wharves, railways and other works and means of communication mentioned in this Article, as well as to lease or purchase through appropriate processes such land and other property as may be necessary for these purposes;
5. To provide against any discrimination within the Free City of Danzig to the detriment of citizens of Poland and other persons of Polish origin or speech;
6. To provide that the Polish Government shall undertake the conduct of the foreign relations of the Free City of Danzig as well as the diplomatic protection of citizens of that city when abroad

ARTICLE 105

On the coming into force of the present Treaty German nationals ordinarily resident in the territory described in Article 100 will *ipso facto* lose their German nationality in order to become nationals of the Free City of Danzig.

ARTICLE 106

Within a period of two years from the coming into force of the present Treaty, German nationals over 18 years of age ordinarily resident in the territory described in Article 100 will have the right to opt for German nationality.

Option by a husband will cover his wife and option by parents will cover their children less than 18 years of age.

All persons who exercise the right of option referred to above must during the ensuing twelve months transfer their place of residence to Germany.

These persons will be entitled to preserve the immovable property possessed by them in the territory of the Free City of Danzig. They may carry with them their movable property of every description. No export or import duties shall be imposed upon them in this connection.

ARTICLE 107

All property situated within the territory of the Free City of Danzig belonging to the German Empire or to any German State shall pass to the Principal Allied and Associated Powers for transfer to the Free City of Danzig or to the Polish State as they may consider equitable.

ARTICLE 108

The proportion and nature of the financial liabilities of Germany and of Prussia to be borne by the Free City of Danzig shall be fixed in accordance with Article 254 of Part IX (Financial Clauses) of the present Treaty.

All other questions which may arise from the cession of the territory referred to in Article 100 shall be settled by further agreements.

APPENDIX B

CONVENTION OF PARIS. TREATY BETWEEN POLAND
AND THE FREE CITY OF DANZIG, CONCLUDED
AT PARIS, 9TH NOVEMBER, 1920

CHAPTER I

ARTICLE 1

A diplomatic representative of the Polish Government stationed at Danzig shall act as intermediary between the Polish Government and the Government of the Free City.

ARTICLE 2

Poland shall undertake the conduct of the foreign relations of the Free City of Danzig as well as the protection of its nationals abroad. This protection shall be assured in the same conditions as the protection of Polish nationals.

Passports issued to nationals of Danzig will not assure to them Polish protection unless they have been visaed by the representative of the Polish Government at Danzig.

ARTICLE 3

In foreign towns where the Free City of Danzig has important economic interests, one or more nationals of the Free City of Danzig, placed at the disposal of the Polish Government by the Free City, shall be included in the staff of the Polish Consulates.

These officials shall be responsible to the Polish Government and shall, under the direction and superintendence of the Polish Consul, be charged with matters specially affecting the interests of nationals of the Free City of Danzig.

ARTICLE 4

Exequaturs for foreign consular officers residing at Danzig shall be issued by the Polish Government in agreement with the authorities of the Free City.

ARTICLE 5

The costs of the diplomatic and consular representation of the Free City of Danzig and of the protection of its nationals abroad shall be borne by Poland.

All dues and fees levied by the diplomatic and consular services shall belong to the Polish Government.

ARTICLE 6

Poland shall conclude no treaty or international agreement affecting the Free City without previous consultation with the Free City; the High Commissioner of the League of Nations shall be informed of the result of this consultation.

The High Commissioner shall in all cases have the right to veto any treaty or international agreement, in so far as it applies to the Free City of Danzig, which, in the opinion of the Council of the League of Nations, is inconsistent with the provisions of the present Treaty or with the status of the Free City.

ARTICLE 7

The Free City may not contract foreign loans except after previous consultation with the Polish Government, which shall communicate its reply within fifteen days. In case of any objection being made on the part of the Polish Government, the question may be submitted by the Free City for consideration to the High Commissioner, who shall decide under the conditions laid down in Article 39 of the present Treaty.

It shall be the duty of the High Commissioner to assure himself that the conditions of the loan are not inconsistent with the provisions of the present Treaty or with the status of the Free City.

ARTICLE 8

The right to fly the Danzig merchant flag shall be restricted to ships which are owned exclusively by nationals of the Free City, including companies or associations which are registered in the Free City and in which nationals of the Free City have a predominant interest.

The Free City shall notify to the Polish Government all registrations of ships under the Danzig flag, stating the rights of ownership and other rights in rem to which the said ships may be subject.

The Polish Government shall be free to establish at Danzig the necessary Polish administrative organization which shall be attached to the establishment of the Polish representative referred to in Article 1, for the registration and for the inspection of the seaworthiness of Polish ships, and for the engagement of crews.

Questions on which there may be disagreement between the Free City and Poland relative to this Article may be the subject of appeal to the High Commissioner of the League of Nations in the conditions laid down in Article 39.

ARTICLE 9

The Free City of Danzig and Poland undertake to bring into accord so far as may be possible in consideration of their special economic interests their legislation regarding the right to fly their respective flags.

ARTICLE 10

The Free City agrees to accord to ships flying the Polish flag the same treatment in the port of Danzig as to ships flying the flag of the Free City.

ARTICLE 11

Direct relations between the local administrative and judicial authorities of the Free City of Danzig and the neighbouring districts of East Prussia

shall be permitted under the same conditions as direct relations between the Polish and German authorities and as may be laid down in a convention to be concluded between Poland and Germany.

ARTICLE 12

Subject to the rights belonging to Poland and referred to in Article 2, the control of foreigners in the territory of the Free City of Danzig shall be exercised by the authorities of the Free City.

CHAPTER II

ARTICLE 13

The Free City of Danzig is included within the Polish customs frontier; Poland and the Free City form one customs area under the Polish customs legislation and tariff.

ARTICLE 14

The territory of the Free City of Danzig shall for customs purposes form one administrative unit under the charge of officials of the Free City and under the general direction of the Polish central customs administration; the Polish Government shall, through Polish inspectors attached to the Danzig personnel, participate in the inspection of the customs service. These inspectors, who shall be paid directly by the Polish Government, shall communicate their observations to the Polish central customs administration.

Customs forms, the printed part of which shall be drawn up in German and in Polish, may be filled in alternatively in German or in Polish.

In order to assure the service, the Free City shall provide a sufficient number of persons acquainted with the Polish language.

ARTICLE 15

The Danzig customs administration shall be answerable to the Polish customs administration for customs receipts and shall be responsible for levying them, as also for the execution of the customs laws.

The expenses of administration borne by the Free City shall be met out of the total customs receipts levied in the territory of the Free City.

Customs dues shall, at the choice of the person discharging them, be paid alternatively in Danzig or Polish Currency.

The accounts shall be audited at the end of every quarter, and Poland shall allow the Free City a fixed percentage of the net receipts; this percentage shall be determined in accordance with the provisions of Article 17.

ARTICLE 16

The provisions of this chapter shall come into force within a period of three months from the coming into force of the present Treaty; until that time the provisional agreement of April 22nd, 1920, shall remain in force.

ARTICLE 17

Within a period of one month from the coming into force of the present Treaty, negotiations shall take place between Poland and the Free City with the object:

- (a) Of examining measures to be taken with a view to the application to the Free City of the Polish customs legislation and tariff and to the adaptation as far as possible of the Danzig legislation to the Polish legislation in so far as concerns monopolies and, in general, all dues and indirect taxation. The Free City undertakes to carry out and to ensure the execution of the said measures;
- (b) Of making regulations, for so long as the two States possess separate monetary systems, concerning the rate of exchange for the levying of customs duties in the port of Danzig in Danzig currency according to a tariff equal to the Polish tariff;
- (c) Of fixing the percentage of net receipts to be allocated to Danzig in accordance with Article 15. In fixing this percentage, the proportion of the customs duties levied on goods destined for consumption in Poland and in the territory of the Free City, respectively, shall be taken into account.

ARTICLE 18

The free zone at present existing in the port of Danzig shall be maintained.

This zone shall be placed under the control and administration of the Board referred to in Article 19, which shall have the power to determine the modification or extension of the limits of the said free zone or the modification of its internal regime, subject to the right of the Government of the Free City and of the Polish Government to state their objections, if any, within fifteen days. In case of disagreement, such objection shall have suspensive force, and the said Governments shall have the right to exercise the appeal to the High Commissioner of the League of Nations in the conditions laid down in Article 39.

CHAPTER III

ARTICLE 19

A Board shall be appointed, entitled "The Danzig Port and Waterways Board," composed of an equal number (which shall not exceed five) of Polish and Danzig commissioners to be chosen by the Polish Government and by the Free City respectively from representatives of the economic interests of the two countries.

The President of this Board shall be chosen by agreement between the Polish Government and the Government of the Free City. In the event of no such agreement being reached within one month of the coming into force of the present Treaty, the Council of the League of Nations shall be requested by the High Commissioner of the League at Danzig to appoint a President of Swiss nationality. In case of a vacancy in the office of President, the same procedure shall be adopted in the month after the going out of office of the former President.

The President shall be appointed for three years and shall be eligible for reappointment.

The President shall preside over the discussions and shall endeavour to promote an agreement between the parties; he shall vote only after he has exhausted all possible means of bringing about such an agreement; his vote shall be decisive in case of an equal division.

The costs and expenditure of the Board shall be covered by the receipts of the services administered by the Board.

ARTICLE 20

The Board shall exercise within the limits of the Free City the control, administration and exploitation of the port and waterways, of the whole railway system specially serving the port, and of all property and establishments employed in such exploitation, excluding property and establishments employed in the general exploitation of the railways.

It shall rest with the Board to determine which railways shall be considered as specially serving the port, subject to the right of the Government of the Free City and of the Polish Government to state their objections, if any, within fifteen days. In case of disagreement, such objection shall have suspensive force, and the said Governments shall have the right to exercise the appeal to the High Commissioner of the League of Nations in the conditions laid down in Article 39.

The Board shall come to an understanding with the Polish Government in order to bring into accord as far as possible the regime of the part of the Vistula placed under its administration and the regime of the Vistula in Poland.

The Board will retain as far as possible the officials, employees and workmen at present engaged in the services of the port, waterways and railways under its administration. In the introduction of new officials or workmen into the said administration, no discrimination shall be exercised against Polish nationals.

ARTICLE 21

The railways not referred to in Article 20 shall, with the exception of the tramways and other railways serving primarily the needs of the Free City, be controlled and administered by Poland, which shall receive the profits and defray the expenditure.

ARTICLE 22

Subsequent agreements to be concluded between Poland and the Free City within four months after the coming into force of the present Treaty shall settle any questions which may arise from the execution of Article 21, especially questions relating to the retention of officials, employees and workmen at present employed on the railways and to the maintenance of rights acquired by them, and questions relating to the guarantees to be accorded reciprocally for the use of the Danzig and Polish languages and currencies, and for the interests of the local population, in all matters concerning the administration, exploitation and services referred to in Article 21.

Failing such agreement, the decision shall be taken by the High Commissioner of the League of Nations in accordance with Article 39.

ARTICLE 23

The Board shall collect all dues, taxes and receipts arising from the administration of the port, waterways and railways referred to in Article 20, and shall defray all costs of upkeep, control, exploitation, improvement and development. All profits and losses shall be divided between Poland and the Free City of Danzig in a proportion to be fixed in a financial convention to be hereafter concluded between them.

Account shall be taken of expenses incurred by the Free City from January 10, 1920, until the coming into force of Articles 20 and 21 and 23 to 26 in the maintenance of the services referred to in Articles 20 and 21.

ARTICLE 24

The Board shall take all necessary measures to assure, in agreement with the Polish Government, the free passage of emigrants and immigrants from or to Poland.

No shipping company or other organization, company or private person, may engage in any service of emigration or immigration from or to Poland without the authorization of the Polish Government.

ARTICLE 25

The Free City of Danzig and the Polish Government undertake to transfer to the Board the ownership of all property which belonged to the former German Empire or to any German State and which forms part of the port or is connected with the administration and exploitation of the port, waterways and railways referred to in Article 20; this property shall be designated by the Principal Allied and Associated Powers.

The ownership of all property formerly belonging to the German Empire or to any German State and connected with the administration or exploitation of the railways referred to in Article 21 shall be transferred to Poland.

The Board shall have the right to lease or to acquire such other property, movable or immovable, situated in the territory of the Free City as it may deem necessary for the control, administration or exploitation of the port, waterways and railways under its charge or for their development and improvement. The Free City of Danzig undertakes to carry out the necessary measures to give effect to the decisions of the Board, and in particular to proceed to any expropriations necessary for this purpose.

The Free City undertakes not to refuse the expropriation in favour of Poland, under equitable conditions, of such land and other property as may be necessary for the exploitation of the services referred to in Article 21.

In the event of this Article giving rise to any dispute between the Government of the Free City and the Polish Government, the disagreement shall be submitted for decision to the High Commissioner in the conditions laid down in Article 39.

ARTICLE 26

It shall be the duty of the Board to assure to Poland the free use and service without any restriction, and in so far as may be necessary for Polish imports and exports, of the port and the means of communication referred to in Article 20. It shall be the duty of the Board to take all measures necessary to assure the development and improvement of the port and means of communication in order to meet all the requirements of this traffic.

In the event of the non-observance of the above provisions, the Free City of Danzig and Poland may exercise the right of appeal provided for in Article 39.

ARTICLE 27

The provisions of Articles 20 and 21 and 23 to 26 shall come into force three months after the appointment of the President of the Board.

ARTICLE 28

At all times and in all circumstances Poland shall have the right to import and export *via* Danzig goods of any kind whatever not prohibited by Polish law

ARTICLE 29

Poland shall have the right to establish in the port of Danzig a post, telegraph and telephone service communicating directly with Poland. Postal and telegraphic communications *via* the port of Danzig between Poland and foreign countries, as also communications between Poland and the port of Danzig, shall be dealt with by this service.

ARTICLE 30

The Free City of Danzig undertakes to lease or to sell to Poland on equitable terms the necessary land or buildings for the establishment and working of the services provided for in Article 29 as well as in Article 21. The Free City undertakes to accord to Poland all the facilities necessary for the installation of the telegraph and telephone lines required for the application of the said Article.

ARTICLE 31

All other postal, telegraphic and telephonic communications within the territory of the Free City, as also communications between the Free City and foreign countries, shall be the concern of the Free City.

ARTICLE 32

Poland and the Free City of Danzig undertake to conclude, within a period of six months from the coming into force of the present Treaty, a special convention for the purpose of establishing uniform postal, telegraphic and telephonic tariffs for communication between the two States; this convention shall at the same time lay down the necessary details for the application of this chapter.

CHAPTER V

ARTICLE 33

The Free City of Danzig undertakes to apply to racial, religious and linguistic minorities provisions similar to those which are applied by Poland on Polish territory in execution of Chapter I of the Treaty concluded at Versailles on June 28, 1919, between Poland and the Principal Allied and Associated Powers, to provide, in particular, against any discrimination, in legislation or in the conduct of the administration, to the detriment of nationals of Poland and other persons of Polish origin or speech, in accordance with Article 104, paragraph 5, of the Treaty of Versailles.

The provisions of Articles 14 to 19 of the Treaty concluded at Versailles between the Principal Allied and Associated Powers and Poland on June 28, 1919, as also the provisions of Article 89 of the Treaty of Versailles with Germany, shall equally apply to the Free City of Danzig.

ARTICLE 34

The conditions of naturalisation in the Free City of Danzig and the conditions under which foreign companies may be converted into Danzig companies shall be determined in agreement between the Free City and Poland

ARTICLE 35

A special arrangement shall be concluded with the least possible delay between Poland and the Free City of Danzig to provide for the execution in Poland and in the territory of the Free City of the judgments of Polish and Danzig tribunals respectively and for the arrest of criminals taking refuge on the territory of Poland or of the Free City of Danzig and for their extradition and for all other judicial questions.

ARTICLE 36

Poland and the Free City of Danzig undertake to enter into negotiations, when circumstances permit, on the request of either of the two parties, with a view to unifying their monetary systems. An interval of one year shall be allowed before such unification, when decided on, comes into effect.

ARTICLE 37

The Polish Government undertakes to enter into negotiations with the Free City in order to facilitate in every way the supply to the Free City of foodstuffs, fuel and raw materials

ARTICLE 38

Further agreements shall be concluded between Poland and the Free City on all questions not dealt with in the present Treaty.

ARTICLE 39

Any differences arising between Poland and the Free City of Danzig in regard to the present Treaty or to any other subsequent agreements, arrangements or conventions, or to any matter affecting the relations between Poland and the Free City, shall be submitted by one or the other party to the decision of the High Commissioner, who shall, if he deems it necessary, refer the matter to the Council of the League of Nations.

The two parties retain the right of appeal to the Council of the League of Nations.

ARTICLE 40

No modification in the present Treaty shall be made except by agreement between Poland and the Free City of Danzig.

The present Treaty, of which the French and English texts are both authentic, comes into force at the same time as the establishment of the Free City of Danzig.

APPENDIX C

CONSTITUTION OF THE FREE CITY OF DANZIG¹

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¹ This text of the Constitution contains the amendments to which the Council

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PART I ORGANISATION OF THE STATE²

I. GENERAL

ARTICLE 1

The City of Danzig and the territory attached thereto shall form a Free State under the name of the "Free City of Danzig."

ARTICLE 2

The arms of the State shall be: On a red shield two silver crosses superimposed, above which is placed a golden crown.

The State flag and the commercial flag shall be on a red ground; in the first third, counting from the mast, and parallel thereto, two white crosses, one above the other and surmounted by a yellow crown

ARTICLE 3

The Sovereign Power in the State shall be vested in the people.

ARTICLE 4

The official language shall be German.

The Polish-speaking portion of the population shall have guaranteed its free racial development by the law and the administration, in particular as regards the use of its mother-tongue in the schools and in the internal administration and as well as in the administration of justice. Details will be determined by law.

ARTICLE 5

The Free City of Danzig cannot, without the previous consent of the League of Nations, in each case: (1) Serve as a military or naval base; (2) Erect fortifications; (3) Authorise the manufacture of munitions or war material on its territory.

II. POPULAR ASSEMBLY

ARTICLE 6^a

The Popular Assembly (*Volkstag*) shall consist of seventy-two deputies.

of the League gave its consent on September 9, 1930. This translation and the original text in the German language is found in the *Official Journal* of December 1930. The previous text of the Constitution, as agreed to by the High Commissioner of the League in Danzig on May 11, 1922, is found in *ibid.*, July 1922. For the first amendment, Valorization of Claims, see *ibid.*, December 1926, pp. 1617-27. The 1930 amendments affected Articles 6, 9, 12, 25, 28, 29, 33, 34, 69, and 117.

² Translation from the German.

ARTICLE 7

The deputies to the Popular Assembly shall be representatives of the whole people. They shall be responsible solely to their own consciences and shall not be bound by any instructions.

ARTICLE 8

The deputies shall be elected by universal, equal, direct and secret suffrage by all citizens, of either sex over twenty years of age, in accordance with the principles of proportional representation.

Any person entitled to vote, who has completed his or her twenty-fifth year, shall be eligible as a deputy.

The following shall be excluded from the exercise of the franchise: (a) persons declared incapable of managing their own affairs or placed provisionally under guardianship, or persons educated under official supervision; (b) persons deprived of their rights of citizenship by a judicial sentence

ARTICLE 9

1. The Popular Assembly shall be elected for four years.

The Popular Assembly may be dissolved before the end of its term of office: (a) by its own decision; (b) by a referendum.

A referendum may also be held on the demand of the Senate. The motion for a dissolution of the Popular Assembly by its own decision must be signed by at least fifteen deputies. It shall be communicated to all the deputies and to the Senate at least one week before it is dealt with. The decision regarding dissolution shall require the assent of a majority of the statutory number of deputies of the Popular Assembly.

The elections to the Popular Assembly shall take place on a Sunday in the last month but one before the expiration of its term of office

In the event of a dissolution, the new elections shall take place on a Sunday not later than two months, and not earlier than six weeks, after the date of the dissolution. The outgoing Popular Assembly shall continue to conduct business until the new elections.

The term of office of the new Popular Assembly shall begin, if the Popular Assembly is dissolved, as from the date of the elections; otherwise, as from the expiration of the term of office of the old Popular Assembly.

The necessary details concerning the election of the Popular Assembly shall be embodied in the electoral law.

2. Paragraph 6 of the Popular Assembly Electoral Law shall read as follows:

"Elections shall be held on a Sunday. The date shall be fixed by the Senate."

ARTICLE 10

All petitions against the validity of the election of members shall be decided by the Supreme Court of the Free City of Danzig. Such cases shall be heard in open court.

Any person entitled to vote shall have the right to lodge an objection. Such objections must be submitted, together with evidence, to the Supreme Court of the Free City, within four weeks of the official return of the result of the election.

The documents relating to the election of deputies shall, when completed, be laid before the Popular Assembly.

Should there be any doubt whether the legal requirements for the office of deputy have been fulfilled, the Supreme Court of the Free City of Danzig shall, at the request of the Popular Assembly, give a decision.

ARTICLE 11

The Popular Assembly shall elect its own President, Vice-President and Clerks; it shall determine its own rules of procedure.

ARTICLE 12

The Popular Assembly shall meet when summoned by its President. It must be summoned at the demand of the Senate, or on a written application, stating the purpose of the summons, made by at least one-sixth of the members.

The Popular Assembly shall meet for the first session after each election at the summons of the Senate, not later than thirty days after the beginning of its term of office.

In the event of a dissolution or of the expiration of the term of office of the Popular Assembly, the outgoing President of the Popular Assembly and his representatives shall continue to discharge their duties until the first session of the newly elected Popular Assembly begins.

ARTICLE 13

The President shall exercise authority and disciplinary power within the Assembly building. The administration of the House shall be in his hands; he shall control the income and expenditure of the House in accordance with the provisions of the Budget, and shall represent the Free City in all legal transactions and in any litigation that concerns his administration.

ARTICLE 14

The business of the Popular Assembly shall be conducted in public. The public may be excluded on a motion of the Senate, or on that of at least one-sixth of the members, adopted by a two-thirds majority.

ARTICLE 15

Correct reports of proceedings at public sessions may be published without any responsibility being incurred.

ARTICLE 16

Not less than one-half of the deputies of the Assembly must be present to constitute a quorum.

ARTICLE 17

Decisions of the Popular Assembly shall require a simple majority of votes except in so far as the Constitution provides otherwise.

ARTICLE 18

The Senate shall be invited to be present at every meeting of the Popular Assembly. Members and representatives of the Senate shall be given a hearing at any time during the meetings. They shall be subject, in matters of discipline, to the authority of the President.

The Popular Assembly and its Committees may demand the presence of any member of the Senate.

ARTICLE 19

The Popular Assembly shall be authorised to demand information from the Senate on all affairs of the State, to satisfy itself regarding the execution of its decisions and the disposal of the State revenues. The subjects regarding which information is required shall be previously communicated to the Senate in writing.

When the legality or propriety of any governmental or administrative measure is called in question, the Popular Assembly shall be entitled, and on the motion of one-fifth of its members shall be bound, to appoint a Committee of Enquiry.

Committees of Enquiry shall not interfere in legal or disciplinary proceedings which are still pending. These Committees shall call for such evidence—to be produced in public session—as they or the proposer of the motion may consider necessary. A two-thirds majority of a Committee of Enquiry may decide that the meetings shall be private. The procedure of the Committee and the number of its members shall be determined by the standing orders. The Judicial and Administrative Authorities shall be bound to produce any evidence called for by these Committees. Documents in the possession of these authorities shall be laid before such Committees, if they so desire. The regulations for procedure in criminal cases shall apply to the enquiries by these Committees or by such authorities as they have instructed, but the secrecy of communications by letter, telegram and telephone shall not be infringed.

ARTICLE 20

No one shall be made subject to any judicial or administrative penalty, or be called to account in other ways outside the Assembly, because of his vote or any utterances made by him in virtue of his office as deputy.

ARTICLE 21

No deputy may, without the consent of the Assembly, be subjected to examination or arrested on account of any punishable act unless he has been arrested while actually committing the said act, or at the latest during the course of the following day. A like consent is necessary for any other restriction of personal liberty calculated to interfere with a deputy in the free exercise of his office.

The Popular Assembly may require any criminal or disciplinary proceedings, any arrest or other restriction placed on the personal liberty of a deputy to be suspended during his term of office.

ARTICLE 22

Deputies are entitled to refuse to give evidence both as to the identity of persons who have communicated information as to any facts to them in their capacity as deputies, or to whom they have made such communications in that capacity, and also as to the nature of these facts themselves. With regard to the seizure of documents, deputies shall have the status of persons possessing a legal right to refuse evidence.

Judicial searches or seizures may not be undertaken in the building of the Popular Assembly except with the consent of the President of the Assembly.

ARTICLE 23

Deputies shall receive allowances in accordance with the provisions of a special law.

ARTICLE 24

Officials, employees and workmen shall not require special leave for the purpose of carrying out their duties as members of the Popular Assembly, the District and Municipal Councils, or any administrative offices and committees.

If any such person be nominated as a candidate for election, he shall be granted the necessary leave, from the time at which the writs for the election are issued, for the purpose of preparing for the election.

III. THE SENATE

ARTICLE 25

The members of the Senate shall be elected by the Popular Assembly for an indefinite period.

The Senate shall consist of the President, the Vice-President and ten Senators.

The number of Senators may be altered by law, but may not exceed ten.

The President, the Vice-President and four Senators shall receive salaries.

The law may provide that, on their number being reduced, all Senators shall receive salaries.

Any law changing the number of Senators or the number of salaried Senators shall require a two-thirds majority, at least two-thirds of the statutory number of deputies being present

The election of members of the Senate shall be secret and shall be by ballot. The candidate receiving a majority of the votes recorded shall be elected. If an absolute majority is not secured at the first ballot, the two persons who have secured the most votes shall be voted for a second time. If both candidates receive an equal number of votes at the second ballot, the decision shall be taken by lot; the lots shall be drawn by the President of the Popular Assembly.

ARTICLE 26

Any person shall be eligible for membership of the Senate who has completed his twenty-fifth year. A member may be re-elected.

The following are ineligible: (a) persons declared wholly or partly incapable of managing their own affairs, or placed provisionally under guardianship; (b) persons deprived of their rights of citizenship by a judicial sentence; (c) undischarged bankrupts.

ARTICLE 27

No person shall be obliged to accept election as a member of the Senate. A member may resign at any time.

ARTICLE 28

At the first meeting of the Popular Assembly after the election, the newly elected member of the Senate shall be installed in his office, in the presence of the Senate, by the President of the Popular Assembly or his deputy.

The new member of the Senate shall solemnly pledge himself by a handshake and shall make the following affirmation.

"I will faithfully carry out my duty as a member of the Senate, and will conscientiously perform the work of my office. I will observe the Constitution and the laws, I will maintain secrecy in regard to all matters which it is my duty to treat as confidential, and, will, to the best of my ability, promote the welfare of the Free City of Danzig"

The addition of a religious oath is permissible.

ARTICLE 29

The members of the Senate are jointly and severally dependent on the confidence of the Popular Assembly and shall resign their office if the Popular Assembly withdraws its confidence from them by a resolution to that express effect. The motion for withdrawal of confidence must be signed by at least fifteen deputies. It shall be communicated to all the deputies and to the Senate at least one week before it is dealt with. The resolution shall require the assent of a majority of the statutory number of deputies and, if not passed by a majority of two-thirds of those present, there shall be a second debate and division after an interval of not less than seven days. In such case, the decision of a majority of the statutory number of deputies shall be sufficient.

ARTICLE 30

A member shall cease to belong to the Senate should any of the cases arise mentioned in Article 26, which render him ineligible for election.

ARTICLE 31

Should the whole Senate resign, it shall continue to discharge its duties until the election of the new Senate.

ARTICLE 32

A member of the Senate may, on a resolution of the Popular Assembly, be impeached for any infringement of the Constitution, or of a law. The motion calling for impeachment must be signed by at least one-quarter of the members of the Popular Assembly. Judgment shall be pronounced by the Supreme Court of the Free City.

Further regulations shall be laid down in a special law.

ARTICLE 33

The legal status of salaried members of the Senate and the subsistence allowance of the unpaid members of the Senate shall be determined by law.

ARTICLE 34

The salaried members of the Senate shall hold no other public office, nor shall they, without the approval of the Senate, follow any other profession; the unpaid members shall hold no public office except with the approval of the Senate.

No member shall serve on a board of managers or of directors of a commercial company without the consent of the Senate.

ARTICLE 35

The Senate shall determine the conduct of its business and the distribution of duties amongst its members.

ARTICLE 36

The President of the Senate shall direct and shall exercise general supervision over the work of the Administration. In all cases in which disadvantage might result from the loss of time due to the necessity of obtaining authority in advance from the Senate, the President, in consultation with the Vice-President, or, in his absence, with the senior Senator, shall himself, for the time being, carry out the duties which devolve on the Senate; he shall nevertheless inform the Senate, at the next meeting, of the steps which he has taken in order that it may approve his action, or decide on some other course.

ARTICLE 37

The meetings of the Senate shall not be open to the public. Not less than one-half of the members of the Senate must be present to constitute a quorum. Decisions shall require a simple majority of votes. In case of an equality of votes the President shall have a casting vote.

A member shall not take part in the discussion or voting upon any subject which concerns his own affairs, or those of persons belonging to his family; he shall withdraw from the Chamber during such discussions.

ARTICLE 38

The Senate shall direct the policy of the Government and be responsible for it to the Popular Assembly.

ARTICLE 39

The Senate is the highest authority in the land. Its particular duties are as follows:

- a) It shall promulgate all laws within a month of their adoption according to constitutional procedure, and shall issue all regulations necessary to ensure their execution.
- b) It shall of its own authority conduct the administration of the State within the limits of the Constitution, of the laws and of the Budget, and shall exercise supervision over all the State authorities.
- c) It shall draft the Budget.
- d) It shall administer the property and revenues of the State. It shall allocate revenue and expenditure, and it shall represent the State in the defence of its rights.
- e) It shall nominate public servants, so far as is not otherwise provided by the Constitution or by law.
- f) It shall provide for the safety and common welfare of the State and all its nationals within the limits of the Constitution and the laws, and shall issue all regulations necessary for this purpose.

ARTICLE 40

The Senate shall have the right to remit punishment and to pardon.

ARTICLE 41

The Senate shall represent the Free City of Danzig in so far as this is not contradictory to the stipulations providing for the conduct of the foreign relations of the Free City of Danzig by the Polish Government, in accordance with Article 104, paragraph 6, of the Treaty of Peace of Versailles.

Official documents shall be signed in the name of the Free City of Danzig by the President or the Vice-President, and by one other member of the Senate.

ARTICLE 42

The Senate of the Free City shall furnish to the League of Nations at any time upon the request of the latter, official information regarding the public affairs of the Free City.

IV. LEGISLATION

ARTICLE 43

Bills must be adopted in the same form by the Popular Assembly and the Senate in order to be passed into law.

If the Senate does not concur within two weeks in a decision adopted by the Popular Assembly regarding a bill, the latter shall be sent back to the Popular Assembly.

If the Popular Assembly adheres to its decision, the Senate shall accept the decision within one month, or appeal to the decision of the people (referendum).

ARTICLE 44

Laws shall come into force on the eighth day after the day on which they are published in the *Official Gazette* for the Free City of Danzig, unless otherwise provided by the law.

ARTICLE 45

Legislation shall likewise be required for: (a) The annual Budget; (b) The issue of loans; (c) The introduction of monopolies and the concession of privileges; (d) The alteration of boundaries of the municipalities; (e) A general amnesty; (f) The conclusion of treaties with other States; this stipulation must not prejudice the stipulations providing for the conduct of the foreign relations of the Free City of Danzig by the Polish Government, in accordance with Article 104, paragraph 6, of the Treaty of Peace of Versailles.

ARTICLE 46

Bills shall be introduced by the Senate, or by the Popular Assembly or by bodies to be constituted by a special law representing the various professions and trades.

Bills dealing with economic policy or social questions shall be submitted to the above professional bodies for their opinion.

ARTICLE 47

A referendum shall be taken on the demand of one-tenth of the electorate, who shall at the same time submit a complete draft of the bill. The bill in question shall be laid before the Popular Assembly by the Senate, with a statement of its views thereon. The referendum shall not be resorted to if the bill is accepted without amendment by the Popular Assembly.

ARTICLE 48

A referendum shall not be resorted to on the Budget, or on legislation imposing taxation, or on decrees regulating salaries, except at the demand of the Senate.

All citizens qualified to vote for the Popular Assembly may take part in any referendum. The decision shall be adopted by a simple majority of the votes recorded. A decision of the Popular Assembly can only be reversed by a referendum if the majority of the electorate take part in the voting.

The procedure of referendum shall be determined by law.

ARTICLE 49

An amendment to the Constitution proposed by the Popular Assembly cannot be adopted unless it passes its second reading by a two-thirds majority, at least two-thirds of the elected deputies being present. At least one month shall elapse between the first and second readings.

The consent of the majority of the electorate shall be required in case of the adoption of an amendment to the Constitution by a referendum.

Amendments to the Constitution can only come into force after they have been communicated to the League of Nations and after the League has stated that it has no objection to these amendments.

V. ADMINISTRATION

ARTICLE 50

An annual statement of all proposed revenue and expenditure of the State shall be drawn up in advance, and embodied in the Budget. The financial year shall run from April 1st to March 31st

ARTICLE 51

If the Budget for the following financial year shall not have become law before the end of the current year, the Senate shall be bound to submit a provisional Budget. It shall only be entitled to collect taxes and other imposts previously in existence, and may only continue to do so for six months after the close of the financial year; it shall only authorise such expenditure as may be required for the maintenance of legally established institutions, or for the execution of measures which have been legally sanctioned; it shall be further authorised to meet all legal obligations of the State and to carry on public works and other undertakings which have already been sanctioned by the Budget of the previous year.

ARTICLE 52

Funds shall only be obtained upon credit in cases of special necessity and, as a rule, only for expenditure for productive purposes

ARTICLE 53

When the Popular Assembly adopts decisions which involve expenditure additional to the Budget, it shall at the same time provide for the meeting of such expenditure.

ARTICLE 54

If the total of the Budget is to be exceeded, or if any expenditure not provided for in the Budget is to be incurred, the subsequent consent of the Popular Assembly must be obtained. Such consent shall only be given in the cases of unforeseen and unavoidable requirements.

ARTICLE 55

Budget accounts shall be audited and established by an independent auditing office. The general Budget accounts for each year, including a summary of State indebtedness, accompanied by the comments of the auditing staff, shall be laid before the Popular Assembly by the Senate, which shall thus be relieved of its responsibility in the matter.

ARTICLE 56

The approval of the Financial Council shall be required: (a) for fresh taxation; (b) for the issue of loans and the undertaking of guarantees; (c) for expenditure which is not already covered, or which is to be covered by a loan.

If the Financial Council does not give its approval, it shall communicate the fact to the Senate within two weeks, and shall state its reasons in writing within a further period of two weeks. The Popular Assembly shall then take a fresh decision.

The composition and procedure of the Financial Council shall be determined by a special law.

ARTICLE 57

The Railways, Postal, Telegraph and Telephone Services of the Free City shall be matters within the purview of the State, without prejudice to the Treaty concluded in accordance with Article 104 of the Treaty of Peace of June 28th, 1919.

ARTICLE 58

Offices shall be established for the permanent administration or supervision of the different branches of the Public Services. Danzig nationals entitled to vote may be attached to these offices, in an honorary capacity, as members.

The offices shall be in all respects subject to the control of the Senate.

Further regulations will be laid down by law.

ARTICLE 59

Committee may be constituted for the discharge of business of a temporary nature.

ARTICLE 60

The representatives of the Free City of Danzig to sit on international Committees which have been instituted by international conventions for the administration of undertakings or institutions, or for the discharge of permanent or temporary duties, shall be elected by the Popular Assembly. The latter may delegate the appointment of such representatives to one of its committees or to the Senate.

VI. ADMINISTRATION OF JUSTICE

ARTICLE 61

Judges shall be independent and subject only to the law.

ARTICLE 62

Extraordinary tribunals shall not be permitted. No person shall be withdrawn from the jurisdiction of his lawful judge.

ARTICLE 63

The constitution and competence of the Courts shall be prescribed by law.

ARTICLE 64

The judges of the regular judiciary shall be elected for life by a special committee consisting of the President and one member of the Senate, the three Presidents of the Popular Assembly, the President of the Court of Justice, three judges elected by the whole body of judges and two advocates elected by the whole body of advocates of the Free City of Danzig. Further regulations, regarding, in particular, the provision of substitutes for members of the Committee who are prevented from attending, the procedure of election and the method of voting, will be determined by law.

ARTICLE 65

Judges shall not be deposed from their office, or transferred to another bench or placed in retirement against their will, whether permanently or temporarily, except in consequence of a judicial decision, and then only for the reasons and in the form laid down by the law. An age may be fixed by the law at which judges shall retire from office.

This clause shall not affect temporary suspensions carried out in virtue of the law.

Should alterations be introduced in the system of courts or of circuits, judges may be compulsorily transferred to another bench or removed from their office by the Committee referred to in Article 64, but they shall continue to receive their full salary.

These provisions shall not apply to judges of the commercial courts, assessors, or jurors.

ARTICLE 66

The conditions governing the eligibility of judges for election, and their official status, shall be determined by special legislation, which may only be amended in the manner specified by Article 49.

VII. COMMUNAL ORGANISATION

ARTICLE 67

The territory of the State shall be divided into urban districts and rural districts.

ARTICLE 68

Rural districts, towns and communes shall have powers of self-government under the supervision of the Senate, in accordance with the provisions of special laws. Matters of State administration may also be transferred to their jurisdiction.

ARTICLE 69

The City of Danzig is an independent commune of the State, possessing its own property.

The communal affairs of the City of Danzig shall rank as affairs of state, and shall be administered by the Senate and Popular Assembly.

A City Council shall be elected by the Popular Assembly from its members and from other citizens of the City of Danzig to decide upon the com-

munal affairs of the City of Danzig. The composition and competence of this Council shall be determined by a special law.

The provisions of this article may be amended by a law passed by a two-thirds majority, at least two-thirds of the elected deputies being present.

The Senate shall undertake to submit such a law to the Popular Assembly before November 1st, 1931.

ARTICLE 70

The principles governing elections to the Popular Assembly shall apply also to town, district and communal elections, but six months' residence shall be necessary to qualify for the right to vote.

PART II. FUNDAMENTAL RIGHTS AND DUTIES

ARTICLE 71

Fundamental rights and duties shall govern the direction and determine the scope of legislation, the administration of justice and the conduct of public affairs.

I. INDIVIDUALS

ARTICLE 72

The nationality of the State shall be acquired and forfeited in accordance with the provisions laid down by law.

The principles of the draft of the law contemplated by this Article shall be submitted for the examination of the League of Nations by May 23rd, 1921, at the latest.

ARTICLE 73

All nationals of the Free City shall be equal before the law. Exceptional laws shall be inadmissible.

Men and women shall have the same civil rights and duties.

There shall be no legal privileges or disqualifications due to birth, position or creed.

Titles—with the exception of Academic degrees—shall not be awarded except when they denote an office or a profession.

Orders and decorations may not be awarded by the Free City.

No national of Danzig may accept titles or orders.

Titles of nobility shall be regarded only as part of a name, and shall no longer be conferred.

ARTICLE 74

The liberty of the person shall be inviolable. No limitation or deprivation of personal liberty may be imposed by public authority, except by virtue of a law.

Persons who have been deprived of their liberty must be informed at the latest on the following day by what authority and on what grounds the deprivation of liberty has been ordered. Opportunity must immediately be given them to lodge objections against such deprivation of liberty.

ARTICLE 75

All nationals shall enjoy freedom of movement within the Free City and shall have the right to stay and to settle at any place they may choose, to

acquire real property and to earn their living in any way. This right shall not be curtailed without legal sanctions.

ARTICLE 76

Every national shall be entitled to emigrate to other countries. Emigration cannot be restricted except by law.

Every national, whether within or outside the territory of the State, shall have the right to claim the protection of the State in his relations with foreign countries.

No national shall be handed over to a foreign Government for prosecution or punishment.

ARTICLE 77

Establishments set up by the State at the public expense in the interests of internal colonisation shall not be used to the prejudice of any particular nationality.

ARTICLE 78

The secrecy of correspondence, as well as of the postal, telephone and telegraph services, shall be inviolable. Exceptions can only be made by legal enactment.

ARTICLE 79

Every person shall have the right, within the limits of the law, to express his opinion by word, writing or in any other manner. He may not be obstructed in this right by any conditions of his work or appointment, and no disadvantage of any kind may be imposed on him on account of his exercise of such right.

There shall be no censorship. Regulations for the conduct of cinematographs may, however, be made, in derogation from this law. Legislative measures shall be adopted to combat obscene or indecent literature, and to protect young persons at public representations and performances.

ARTICLE 80

Marriage, as the foundation of family life, shall be placed under the special protection of the State. It shall rest upon the equality of rights of both sexes.

Large families shall have a claim to corresponding special support. Motherhood shall have a claim to the protection and care of the State

ARTICLE 81

The education of children to physical, moral and social efficiency shall be the supreme duty and natural right of the parents; the political community shall supervise the performance of these duties.

ARTICLE 82

The laws of the State shall provide the same opportunities of physical, moral and social development for illegitimate children as for children born in wedlock.

ARTICLE 83

Young persons shall be protected against exploitation as well as against moral, spiritual and physical neglect. Compulsory measures to ensure their welfare may only be adopted if sanctioned by the law.

ARTICLE 84

All nationals shall have the right, without notification and special permission, to assemble peaceably and without arms. Notice shall be given of open-air meetings and permission may be withheld in case of immediate danger to public security. Special provisions may be made for the protection of the Popular Assembly. Notification of religious processions shall not be required.

ARTICLE 85

All nationals shall have the right to form unions or associations, provided their objects are not in contravention of the penal laws. This shall also apply to religious unions and associations. Every union shall be at liberty to acquire legal personality in accordance with the provisions of the civil code. This right shall not be refused to any union on the ground that it has been formed for political, social-political or religious objects.

ARTICLE 86

Every national has complete control over his house which is inviolable. Exceptions are only admissible when the law so provides.

ARTICLE 87

It is the duty of every national to protect the Constitution against unlawful attacks.

ARTICLE 88

All nationals without distinction shall contribute in proportion to their means to the discharge of all public liabilities, in accordance with the provisions of the laws.

ARTICLE 89

All nationals shall be bound according to the provisions of the law to give personal service to the State or the Municipality.

ARTICLE 90

All nationals shall be bound to undertake official duties of an honorary nature in accordance with the provisions of the laws.

II. PUBLIC SERVANTS

ARTICLE 91

All nationals of either sex shall be eligible for public appointments, with due regard to their qualifications and previous service.

Immediately after the coming into force of the Constitution of the Free City, special laws shall be passed with regard to the rights and emoluments of officials. The existing organisations representing the officials shall be called in to assist in the preliminary drafting of these laws.

ARTICLE 92

Officials shall be appointed for life, unless otherwise provided by the Constitution or by law. Pensions and allowances to widows and surviving dependents shall be regulated by law. Rights duly acquired by officials shall

be inviolable. Officials may have recourse to legal process for recovering their financial claims.

Officials cannot be provisionally removed from office, discharged or transferred, whether temporarily or permanently, to the retired list, or to another post with a lower salary, except in accordance with the conditions and formalities established by law. An opportunity for lodging a complaint and for re-opening the proceedings shall be given in the case of any penalty inflicted in connection with official duties. No entries of an unfavourable nature shall be made in the personal record of an official until the latter has had an opportunity of furnishing an explanation. Every official shall be allowed to see his own record.

ARTICLE 93

Officials are servants of the community and not of a party. They are entitled to freedom of political opinion and freedom of association. They shall not be subjected to any restriction in this respect.

ARTICLE 94

The officials shall have their own representation in accordance with more detailed provisions to be determined by law.

ARTICLE 95

Teachers of both sexes in the public schools are officials directly under the State. This provision does not affect the obligation to maintain the schools.

III. RELIGION AND RELIGIOUS ASSOCIATIONS

ARTICLE 96

There shall be complete freedom of creed and conscience. The undisturbed practice of religion shall be assured, and shall be placed under the protection of the State. Enjoyment of civil and political rights, and admission to public offices shall be independent of religious creed.

No one shall be bound to disclose his religious convictions. The public authorities shall not enquire as to any person's membership of a religious body except where rights and duties are involved on account of such membership, or when a legally instituted statistical census makes such enquiry necessary.

No one shall be compelled to take part in any ecclesiastical act or ceremony.

Where the existing law provides for the taking of an oath according to a religious formula, the oath may also be validly administered if the person to be sworn shall omit the religious formality, and shall declare "*I swear*." Apart from this, the text of the oath as prescribed by law shall remain unchanged.

Religious bodies in which the use of a solemn declaration is customary in place of the oath shall be entitled to make use of it.

ARTICLE 97

Religious bodies which are public law corporations shall be entitled to collect contributions from their members, based on the rate assessment lists.

ARTICLE 98

The ownership and other right, of religious bodies and associations in their institutions, foundations and other property devoted to purposes of worship, education or social welfare are guaranteed.

ARTICLE 99

In so far as religious services and ministrations are needed in hospitals, prisons and other public institutions, religious bodies shall be admitted for religious purposes, but no coercion shall be exercised.

ARTICLE 100

Sunday and the public holidays recognised by the State shall be protected by law as days of rest and spiritual refreshment.

IV. EDUCATION AND SCHOOLS

ARTICLE 101

The arts and sciences and their teaching shall be free. The State shall afford them protection, and shall be bound to promote their interests in every way.

ARTICLE 102

The whole system of education shall be regulated by a law which shall be drafted with the co-operation of the existing organisations of the teaching profession.

The whole system of education shall be placed under the supervision of the State. School inspection shall be carried out by officials appointed for this purpose only and who have had expert training.

ARTICLE 103

School attendance shall be compulsory for all. To this end are instituted elementary schools covering at least eight years of attendance and also continuation or technical schools for young persons of both sexes up to the end of their eighteenth year.

The maintenance of the State schools shall be the concern of the State; it may associate the municipalities with it in these duties.

Teaching and educational material in the elementary and continuation schools shall be free of charge.

ARTICLE 104

Public education shall be organised on a common undenominational system. Existing schools of other types shall continue. The legitimate wishes of the parents and guardians shall also be taken into consideration as regards any new organisation of such schools, provided that the efficiency of the educational system does not suffer.

The entire system of elementary, secondary and advanced schools is based essentially on the principle of a common school for all. In establishing this system, the guiding principle shall be preparation for the various vocations and professions. In admitting a child into any particular school, consideration shall be given to the aptitude and inclinations of the child,

and to the wishes of its parents or guardians, and not to the financial or social position of its parents.

Teaching and material for teaching shall also be provided free of charge in secondary and advanced schools and universities for gifted children of parents with moderate means.

Gifted children of parents with moderate means shall be provided with assistance from public funds to attend advanced schools and universities.

ARTICLE 105

Private schools, if substituted for State schools, shall require State authority and shall be subject to the laws of the State. Such authority may only be granted if the private school is not inferior to the State school in its educational programme and organisation, nor in the scientific training of its teaching staff, and if the tendency to distinguish between pupils according to the means of their parents is not thereby encouraged. Authority shall be refused if the financial and legal position of the staff is insufficiently secured.

No further private preparatory schools shall be established and those which exist shall be abolished.

Compensation shall be awarded whenever existing private schools, including preparatory schools, are closed. Further provisions will be prescribed by law.

ARTICLE 106

Religious instruction shall be part of the regular school curriculum. It shall be given in accordance with the principles of the religious bodies concerned, without prejudice to the State's right of supervision.

The imparting of religious instruction and the holding of services and ecclesiastical ceremonies shall be subject to the teachers' expressed willingness to undertake such duties; the right to withdraw a child from religious instruction, or from participation in religious ceremonies and acts, shall be granted in accordance with the expressed wishes of the person who is responsible for the religious upbringing of the child.

ARTICLE 107

In State school-teaching, care shall be taken not to offend the susceptibilities of those holding different opinions

ARTICLE 108

Instruction on the duties of citizenship shall form part of the school curriculum. At the end of the period of school attendance every pupil shall be given a copy of the Constitution.

ARTICLE 109

Objects of interest from an artistic, historic, natural and picturesque point of view shall be under the protection and care of the State.

It is the duty of the State to prevent the removal of works of art to foreign countries.

V. ECONOMICS

ARTICLE 110

The rights of property shall be secured. Expropriation may only be effected in accordance with the provisions of the law and for the benefit of the whole community, and in return for due compensation; in case of dispute with regard to the amount of compensation, recourse may be had to the law-courts

ARTICLE 111

The soil and its natural resources will be the subject of special legislation which shall prevent all misuse, and which shall enable every family of the Free City to obtain a permanent abode suitable for residence (homestead) or, in the case of those who have received vocational training, a place in which they can live and work permanently. Large families, those disabled by the War, and those physically affected as the result of their employment, shall be given special consideration in the housing legislation which is to be passed.

The unearned increment, which accrues from the land without any expenditure of labour or capital, shall be used for the benefit of the community.

ARTICLE 112

Transfer of private commercial undertakings to public ownership, in as far as it is required in the public interest, may be effected by special legislation in return for compensation.

ARTICLE 113

Freedom of association with the object of guaranteeing and improving conditions of labour and economic conditions shall be secured to all individuals and to all vocations. Any agreements and measures tending to restrict or obstruct such freedom are illegal.

ARTICLE 114

The State shall draw up a comprehensive Scheme of Insurance, in the drafting of which the insured shall have a determining voice, for the maintenance of health and working efficiency, the protection of motherhood and as a provision against the economic consequences of old age, infirmity and the vicissitudes of life, including unemployment.

ARTICLE 115

Workers and employees may respectively organise separate Works Committees (*Betriebsausschüsse*) elected from amongst themselves. These shall co-operate with the employers on a basis of equality in the regulation of questions concerning wages and labour conditions. Further details will be determined by law.

The organisations set up by either side and their mutual agreements shall be recognised.

In order to secure the social and economic interests of workers and employees and to promote the general economic development of productive forces, a Labour Office shall be established in accordance with the second paragraph of Article 46.

PROVISIONAL AND FINAL ARRANGEMENTS

ARTICLE 116

The Constitution of the German Empire of August 11th, 1919, is hereby revoked. All laws and decrees which are valid in the territory of the Free City of Danzig at the time of the coming into operation of this Constitution shall remain in force in so far as they are not suspended by this Constitution or by legislation.

The Popular Assembly shall be bound, as soon as it meets, immediately to appoint a Committee to examine all decrees which have been issued since January 10th, 1920.

APPENDIX D

PRESIDENTS OF THE SENATE OF THE FREE CITY

1. DR HEINRICH SAHM, 1920-1931
Chief of police in occupied Warsaw during World War I; politically affiliated with the *Deutschnationale Volkspartei* (Conservative-Nationalist) until 1928 when he became an Independent. Became mayor of Berlin after he left Danzig; later Hitler's minister to Sweden.
2. DR ERNST ZIEHM, 1931-1933
Former President of the Supreme Administrative Court (*Oberverwaltungsgericht*) of the Free City; leader of the *Deutschnationale Volkspartei* after 1930; a man with "a deep sense of responsibility" who "represented traditional Prussian bureaucracy at its best . . . Far from being a liberal, he was modest, religious, and sincere, and his quiet and firm ways earned him the respect due to an elder statesman"¹ He was a determined opponent of National Socialism. Dr. Ziehm lived in retirement after 1933.
3. DR HERMANN RAUSCHNING, 1933-1934
Born in Toruń (Thorn), then in Germany. Active in the German minority movement, author of a historical dissertation on "The De-Germanization of West Prussia and Posen" (1931). He moved from Poznań to Danzig, became a landowner and was elected president of the *Landbund*, an organization which represented agricultural interests. Through it he made contact with the National Socialist party and became its agricultural expert. Although he became head of the government of the Free City, he was only second from the top in the Nazi party hierarchy, being a vice-Gauleiter of the Danzig district. He represented the bourgeois wing of the party, worked hard for Danzig-Polish rapprochement (he seems to have been sincere in these efforts), and exercised a moderating influence while head of the government. He was forced to resign under the heavy pressure of the party extremists. He had already become deeply disappointed in the Hitler party. Now living in this country, he is best known to Americans as the author of *The Revolution of Nihilism* and other works on National Socialism.²
4. ARTHUR GREISER, 1934-1939
Also born in Poland, in a small town in Poznań, then the Prussian province

¹ See Leonhardt, *Nazi Conquest of Danzig*, pp. 45-46.

² See *ibid.*, p. 56, and elsewhere, especially pp. 102-3 for the author's answer to the question "how a man like Rauschning could ever have reconciled himself, even temporarily, with National Socialism." Dr. Leonhardt used to be attorney for the democratic opposition to the Nazi régime of the Free City.

of Posen. Son of a minor government official. He won distinction as a soldier in the last war but encountered difficulties in adjusting himself to peacetime conditions. Joined one of the "border defense corps" (*Grenzschutzkorps*) organizations on the Polish border and later went into business in which he failed. Having joined the Hitler party in 1923 he was one of the veterans of the party. He was good at taking orders from Gauleiter Albert Forster, Hitler's trusted lieutenant and actual boss of the Free City after 1933.²

APPENDIX E

HIGH COMMISSIONERS OF THE LEAGUE OF NATIONS

1. SIR REGINALD TOWER (British), January 1920 to November 1920
In the British diplomatic service since 1885, including assignments to Berlin and Bavaria. Minister to Mexico and to the Argentine Republic. In Danzig he combined the functions of Allied High Commissioner, in which capacity he acted as the Temporary Administrator of the Free City, with those of High Commissioner of the League of Nations. In this latter role he took an important part in the making of the Free City's Constitution.
2. LIEUTENANT COLONEL EDWARD LISLE STRUTT (British), November 1920 to December 1920
A career officer in the British Army, participant in the Boer War and the European War of 1914-1918; in 1922 he was second in command of a Mount Everest expedition.
3. SIGNOR BERNARDO ATTOLICO (Italian), December 1920 to January 1921
A well-known professor of international law.
4. LIEUTENANT GENERAL SIR RICHARD HAKING (British), January 1921 to February 1923
An old Army officer. Chief of the British Section of the Armistice Commission, 1918-1919; in command of the British Military Missions to Russia and the Baltic Provinces, 1919, commander of the Allied troops in the East Prussian plebiscite area. As High Commissioner he handed down twenty-four Decisions, including some of the most important ones.
5. MR. MERVYN SORLEY MACDONNELL (British), February 1923 to February 1926
In the Sudan and Egyptian Civil Service for almost two decades; Governor of the Western Desert Province, Egypt, prior to his appointment as High Commissioner. Handed down over twenty Decisions, including the only one fully reversed by the League Council (Polish Postal Service in Danzig).
6. MR. J. A. VAN HAMEL (Netherlandish), February 1926 to June 1929
A professor of law; publicist. Very unpopular in Danzig. He handed down seven Decisions; his term of office coincided with a period of good Danzig Polish relations.
7. COUNT MANFREDI GRAVINA (Italian), June 1929 to September 1932
In the Italian diplomatic and naval service since 1906. A grandson of Richard Wagner. Died in office, to the sincere regret of both Danzigers and Poles.
8. MR. HELMER ROSTING (Danish), October 1932 to October 1933
Former Chief of the Administrative Section of the League Secretariat and an expert on Danzig. He was appointed temporary High Commissioner and arrived at Danzig at a most difficult time in the relations between Danzig and

² Leonhart, *Nazi Conquest of Danzig*, pp. 105-6.

Poland when hostile emotions were at their peak. He exercised a strong and generally beneficial influence on relations between the two states. Later he was appointed Chief of the Minorities Section of the League of Nations.

9. MR. SEÁN LESTER (Irish), October 1933 to January 1937
A journalist until 1922; official in the Department of External Affairs until 1929; Permanent Delegate of the Irish Free State to the League of Nations from that year to 1934. His appointment was originally opposed by Poland. Mr. Lester became a forceful fighter against the violations of the Danzig Constitution which had been guaranteed by the League but was strongly handicapped by the attitude of the weak League Council.¹ Upon his resignation as High Commissioner he became Deputy Secretary General of the League of Nations, later its Acting Secretary General.
10. DR. CARL BURCKHARDT (Swiss), February 1937 to September 1939
A former attaché at the Swiss Legation in Vienna; Professor of Modern History at the University of Zurich and the Graduate Institute of International Studies at Geneva; distant relative of the late historian of the Renaissance, Jakob Burckhardt. A great disappointment to the democratic opposition to the Nazi regime in the Free City. The Nazis played up to him but ordered him to leave the city within two hours after the German army had entered Danzig on September 1, 1939.² Later elected President, International Red Cross. Now Swiss Minister to Paris.

APPENDIX F

POLISH DIPLOMATIC REPRESENTATIVES IN DANZIG

1. M. BIESIADECKI, 1920-1921
2. LEON PLUCINSKI, 1921-1924
3. HENRYK STRASBURGER, 1924-1932
Under-Secretary of State in the Ministry of Commerce and Industry, 1918-1923; same in the Ministry of Foreign Affairs, 1923; Minister of Finance, Industry and Commerce, 1939-1942, Minister of Finance, 1942-1943; Minister of State in charge of Polish Affairs in the Middle East, 1943-
4. KASIMIR PAPÉE, 1932-1936
Former Polish Consul General in Königsberg; Minister to Czechoslovakia, 1937-39; Ambassador to the Holy See, 1939-.
5. MARJAN CHODACKI, 1937-1939

APPENDIX G

PRESIDENTS OF THE HARBOR BOARD

1. COLONEL JAMES DE REYNIER (Swiss), 1921-1925
2. COLONEL HUGUES DE LOES (Swiss), 1925-1931
3. DR. CHARLES BENZIGER (Swiss), 1931-1934
4. DR. J. A. NEDERBRAGT (Netherlandish), 1934-1939
Chosen by agreement between the Danzig and Polish members of the Harbor Board; owing to disagreement among the board members, along national lines, the first three Presidents were chosen by the Council of the League of Nations.

¹ For comments on Mr. Lester as a person and as High Commissioner, see Leonhardt, *Nazi Conquest of Danzig*, pp. 217-23.

² See *ibid.*, pp. 337-38, for a characterization of Mr. Burckhardt as seen by the opponents of the Greiser regime in Danzig.

APPENDIX H
SETTLEMENT OF DECISIONS BY THE HIGH COMMISSIONERS*

Year	High Commissioner	Cases Brought by		Decisions Given	Appeal to Council†			Appeals Settled by Later Agreement		Decision Confirmed by Council	Decision Changed by Council	Cases Finally Settled	Cases Not Settled by Jan. 1, 1935
		Poland	Danzig		Both	Poland	Danzig	Both	Appeals With-drawn	Vali-dating Decision	Re-placing Decision		
1921	Haking	2	4	5		3	2	3	1	6	2	11	0
1922	Haking	3	7	3		5	3	3	1	3	3	11	2
1923	MacDonnell	3	5	0		4	3	1	1	3	2	6	2
1924	MacDonnell	3	13	0		5	8	2	0	3	4	15	1
1925	MacDonnell	0	1	0		1	0	0	0	0	0	1	0
1926	Van Hamel	0	2	0		0	1	0	1	0	0	2	0
1927	Van Hamel	2	3	0		0	1	1	0	0	0	5	0
1928	Van Hamel	0	0	0		0	0	0	0	0	0	0	0
1929	Van Hamel	0	0	0		0	0	0	0	0	0	0	0
1930	Gravina	1	1	0		0	0	0	0	0	0	2	0
1931	Gravina	0	1	0		0	0	1	0	0	0	1	0
1932	{Gravina	0	4	0		2	1	1	1	0	0	4	0
	{Rosting	2	1	0		1	0	2	0	0	1	3	0
Totals		16	42	8		21	19	14	5	15	13	61	5

* Table taken from Foster MS. "The Free City of Danzig." Appendix E. No Decisions were rendered after 1933, although twenty-five unsettled matters were pending in the spring of that year. During 1933 and 1934 the Free City and Poland settled their outstanding differences by negotiation, without recourse to the High Commissioner, in line with Hitler's anti-League of Nations policy. The outstanding disputes at that time related to the utilization of the port of Danzig by Poland, the economic relations between the two states, and the treatment of the Polish minority in Danzig.

† Mr. Foster points out that this column is somewhat misleading, since upon appeal by one party the other often appealed as a formality and in order to strengthen its case.

APPENDIX I

LIST OF THE HIGH COMMISSIONERS' DECISIONS,
1921-1933*

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
1	1921 Feb. 4. Polish transport guard at Neufahrwasser (D)†	Apr. 12, 1921 (P)	June 22, 1921 (Geneva)	Settled	Valid in connection with the agreement of June 22, 1921
2	Feb 28. <i>Puppel v. Deutsche Bauern Bank</i> (P)†	Apr. 26, 1921 (P)	—	Settled	by direct agreement between the two parties, the decision therefore not valid
3	Aug. 15. Railways in the territory of Danzig. ownership, control, etc. (P&D)	Aug. 26, 1921 (D)	Sept. 23, 1921 (Geneva)	Settled	Valid in connection with the agreement of Sept. 23, 1921 ; appeal withdrawn
4	Aug. 30. Visas not required for foreigners entering the Free City (P&D)	—	—	Settled	Valid
5	Sept. 1. Control and administration of the Vistula within Danzig territory (P&D)	Oct. 5, 1921 (P)	—	Settled	Valid after the League Council confirmed the decision on Sept. 1, 1922
6	Sept. 5. Railways in the territory of Danzig: language, currency, etc. (P&D)	—	Sept. 23, 1921 (Geneva)	Settled	Valid in connection with the agreement of Sept. 23, 1921
7	Nov 26. Option by Danzig nationals (D)	—	—	Settled	Valid

* Based on an official summary published by the Danzig Senate in 1933, and brought down to 1934 in Foster MS, "The Free City of Danzig," Appendix F. See above, Appendix H.

† Case brought to the High Commissioner by Danzig (D) or Poland (P).

No.	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
8	1921 (<i>Continued</i>) Dec. 6 Legal position of property of Polish Fisc, Polish authorities, offices and employees, of Polish ships in Danzig territory	Dec. 17, 1921 (P) Dec. 19, 1921 (D)	May 17, 1922 (Geneva)	Settled	Valid, but a further decision was given by the H.C. (May 23, 1923) <i>re</i> dispute over term "diplomatic staff"
9	Dec. 16. Power of Danzig authorities to expel Polish nationals and nationals of other countries from Danzig (P)	Jan. 4, 1922 (D) Jan. 9, 1922 (P)	Aug. 17, 1922 (Danzig)	Settled	Not valid, having been replaced by the agreement of Aug 17, 1922
10	Dec. 17. Conduct of the foreign affairs of Danzig (D)	Dec. 27, 1921 (D) Jan. 26, 1922 (P)	May 17, 1922 (Geneva)	Settled	Valid in connection with the agreement of May 17, 1922
11	Dec. 18. Treaty dealing with judicial affairs to be arranged between Germany and Danzig (D)	Dec. 27, 1921 (D)	Sept. 1, 1923 (Geneva)	Settled	Valid in connection with the agreement of Sept. 1, 1923
1	1922 Apr 7. Depot for Polish war material in transit in the port of Danzig (P&D)	May 4, 1922 (D) May 16, 1922 (P)	—	Settled	Not valid; replaced by decision of Council Mar. 14, 1924, and supplementary resolution Sept 19, 1925
2	May 25. Establishment of a Polish postal, telegraph, and telephone service in the port of Danzig (P)	Aug 11, 1922 (P)	—	Settled	Valid, after the H C interpreted his decision on Aug 30, 1922, and Poland withdrew her appeal
3	Aug. 22. Contracting of foreign loans by a municipality or commune of Danzig (D)	—	—	Settled	Valid

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
4	1922 (<i>Continued</i>) Aug. 23. Competence of the Polish diplomatic representative at Danzig (D)	Sept. 30, 1922 (P)	Jan 30, 1923 (Paris)	Settled	Not valid, having been replaced by the agreement of Jan. 30, 1923
5	Aug. 24. Representation of Danzig at international conferences (D)	Sept. 29, 1922 (D) Sept 30, 1922 (P)	Jan. 30, 1923 (Paris)	Settled	Valid in connection with the agreement of Jan 30, 1923
6	Oct. 27 Leasing of property belonging to the Harbor Board (P)	Dec. 1, 1922 (D)	Apr. 16, 1923 (Geneva)	Settled	Valid in connection with the agreement of Apr. 16, 1923
7	Nov. 3. Treaty concluded by the Polish government with Memel on behalf of Danzig (D)	Dec. 8, 1922 (D)	Sept 1, 1923 (Geneva)	Not yet settled	Still in abeyance
8	Nov 28. Method of conducting correspondence regarding foreign affairs of Danzig (D)	Dec 4, 1922 (D)	Feb 1, 1923 (Paris)	Settled	Valid in connection with the agreement of Feb. 1, 1923
9	Dec. 5. Official languages of the Harbor Board (P&D)	Jan 10, 1923 (P) Jan. 12, 1923 (D)	Apr. 17, 1923 (Geneva)	Settled	Not valid; replaced by the agreement of Apr 17, 1923
10	Dec. 12. Establishment of a Polish railway direction in Danzig which administers railways other than those in Danzig (D)	Jan. 17, 1923 (P)	June 23, 1923 (Danzig)	Settled	Valid after the Council confirmed the decision on March 13, 1925
11	Dec. 20. Claim by Poland for demurrage incurred by delay in unloading explosives (P)	Jan. 23, 1923 (P)	—	Not yet settled	Still in abeyance

No.	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
12	1922 (<i>Continued</i>) Dec. 23. Establishment of a Polish letter sorting office in the Danzig main railway station (P&D)	Feb. 6, 1923 (P)	Apr. 18, 1923 (Geneva)	Settled	Not valid, having been replaced by the agreement of Apr. 18, 1923
13	Dec. 31. Installation of a Polish firm in the main railway station at Danzig with the title of official traveling agency (D)	—	—	Settled	Valid
1	1923 Apr. 29. Financial situation of the Harbor Board (D)	June 1, 1923 (P)	Sept. 1, 1923 (Geneva)	Settled	Not valid, having been replaced by the agreement of Sept. 1, 1923
2	May 1. Visum fees for Danzig citizens (D)	May 26, 1923 (D)	—	Not yet settled	Still in abeyance
3	May 22. Taxation of the property of the Polish government in Danzig (P)	July 17, 1923 (P)	Sept. 1, 1923 (Geneva)	Settled	Valid in connection with the agreement of Sept. 1, 1923
4	May 23. Diplomatic status of the Polish government officials in Danzig (P)	July 17, 1923 (P)	Dec. 6, 1923 (Danzig)	Settled	Valid in connection with the agreement of Dec. 6, 1923
5	May 24. Power of the Harbor Board to contract loans (P)	June 4, 1923 (P)	Sept. 1, 1923 (Geneva) May 4, 1924 (Danzig)	Not yet settled	Still in abeyance
6	June 6. Police of the Harbor Board (D)	July 14, 1923 (D) May 31, 1923 (P‡)	Sept. 1, 1923 (Geneva) June 23, 1934 (Danzig)	Settled	Settled by the agreement of June 23, 1934

‡ Poland appealed against the draft decision before the decision was issued

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
7	1923 (<i>Continued</i>) June 21. Liquidation of a property in Poland belonging to a Danzig national (D)	July 30, 1923 (D)	Aug. 16, 1928 (Danzig)	Settled	Valid, completed by special arbitration of the H.C. (March 31, 1933), for which see below
8	Dec. 13. Service flag of the Harbor Board (D)	Jan. 21, 1924 (D)	—	Settled	Valid; Danzig withdrew her appeal, March 14, 1924
1	1924 Jan. 8. Right of the Free City to participate in the railway conference at Berne, May 1923 (D)	Feb. 16, 1924 (P)	May 4, 1924 (Danzig)	Settled	Valid in connection with the agreement of May 4, 1924
2	Jan. 28. Issue of passports to Danzig citizens abroad (D)	Feb. 24, 1924 (P)	May 4, 1924 (Danzig)	Settled	Valid in connection with the agreement of May 4, 1924
3	Jan. 29. Upkeep of the Mottlau and the Kaiserhafen (D)	Apr. 25, 1924 (D§)	July 25, 1931 (Danzig)	Settled	Not valid, having been replaced by the agreement of July 25, 1931 (cf. Decision No. 1, 1927)
4	Feb. 23. Polish parcels-post sorting office in Danzig harbor (D)	Mar. 6, 1924 (D)	Aug. 29, 1924 (Danzig)	Settled	Not valid, having been replaced by the agreement of Aug. 29, 1924
5	July 23. Conscription of a Danzig national in the Polish army (D)	Sept. 1, 1924 (P)	—	Settled	Valid
6	July 31. Names of places in Danzig and Poland (D)	Sept. 2, 1924 (D)	—	Not yet settled	Not valid; the question is provisionally settled by exchange of notes dated June 24, 1925, and Oct. 3, 1925

§ Danzig appealed against the Harbor Board

No.	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
7	1924 (<i>Continued</i>) Aug. 1 Expulsion of Danzig citizens from Poland (D)	Aug. 9, 1924 (D)	—	Settled	Valid after the Council confirmed the decision on Dec. 12, 1924
8	Oct. 18. Upper Silesia Transit Agreement of June 22, 1924 (D)	—	—	Settled	Valid
9	Nov. 5. Acquisition of ownership of a steam ferry between the Holm and the mainland (D)	Nov. 20, 1924 (D§)	Dec. 9, 1924 (Rome)	Settled	Not valid, having been replaced by the agreement of Dec. 9, 1924
10	Nov. 6. Export duties (D)	Nov. 20, 1924 (D)	—	Settled	Valid after the League Council confirmed and completed the decision on March 13, 1925
11	Nov. 7. Ratification of the Danzig-Polish Tariff Agreement (D)	Nov. 20, 1924 (P)	—	Settled	Not valid, having been replaced by the decision of the Council, March 13, 1925
12	1924 Nov. 8. Appointment of Danzig consular attaches to Polish consulates abroad (D)	Nov. 18, 1924 (D)	Nov. 25, 1924 (Danzig)	Settled	Valid in connection with the agreement of Nov. 25, 1924
13	Nov. 9. Property of the old Vistula administration (P)¶	Nov. 17, 1924 (D) Nov. 18, 1924 (P)	—	Settled	Not valid, having been replaced by the Decision of the Council, March 13, 1925
14	Nov. 10. Participation of the Free City in the World Postal Conference at Stockholm (D)	Nov. 18, 1924 (D) Nov. 19, 1924 (P)	—	Settled	Valid, after the Council confirmed and completed the decision, Dec. 12, 1924

§ Danzig appealed against the Harbor Board

¶ Poland appealed to the High Commissioner against the Harbor Board.

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
15	1924 (<i>Continued</i>) Nov. 10 Police of the Harbor Board (P)	Nov. 20, 1924 (D)	June 23, 1934 (Danzig)	Settled	Settled by the agreement of June 23, 1934
16	Nov 15 Public corporations (P)	Nov 18, 1924 (P)	—	Settled	Valid; Council confirmed decision on March 13, 1925
1	1925 Feb. 2 Polish postal service in the port of Danzig (D)	Feb 20, 1925 (P)	—	Settled	Not valid, decision reversed by the Council on Sept. 19, 1925. See also Advisory Opinion of the P.C.I.J.**
1	1926 Aug. 26. Hangars in the port of Danzig (D)	—	—	Settled	Valid
2	Aug 31 Liquidation of M. Knospe (D)	Oct 9, 1926 (D)	—	Settled	Valid; Danzig withdrew her appeal
1	1927 Apr 8. Mottlau-Kaiserhafen (P)	May 17, 1927 (D) May 19, 1927 (P)	July 25, 1931 (Danzig)	Settled	See Decision No. 3, 1924
2	Apr. 8. Competence of the Danzig Courts in cases brought by railway officials against the railway administration (P)	May 12, 1927 (D)	Mar. 6, 1928 (Danzig)	Settled	Replaced by the agreement of March 6, 1928, by which the Opinion of the P.C.I.J. was adopted
3	Oct. 26. Ratification by Poland of the Treaty concerning the railway tariffs in the territory of Danzig (D)	--	--	Settled	Valid

|| The only decision reversed by the Council of the League.

** Permanent Court of International Justice

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
4	1927 (<i>Continued</i>) Nov. 12. Obligation of Poland to pay for upkeep of the dykes (D)	—	—	Settled	Valid
5	Nov. 12. Establishment of a marine office in Danzig by Poland (D)	—	—	Settled	Valid
	1928—No decisions rendered. 1929—No decisions rendered.		—	—	
1	1930 July 18. Acquisition of land necessary for the extension of the railways under the Harbor Board (P††)	—	—	Settled	Valid
2	July 18. Ice-breaking on the Vistula	—	—	Settled	Valid
1	1931 Oct. 26. Use by Poland of the Port of Danzig (D)	Dec. 4, 1931 (D) Dec 5, 1931 (P)	Aug. 5, 1933 (Danzig)	Settled	The decision was partially approved by the Council, May 10, 1932; case settled by the agreement of Aug. 5, 1933
1	1932 Jan. 12. The authority of the control in regard to the laws for traffic on the railways (D)	Feb 27, 1932 (D)	—	Settled	Valid; the decision confirmed by the Council, May 10, 1932
2	Jan. 14. The organization of the railways situated in the territory of the Free City (D)	Feb 29, 1932 (P) Mar 4, 1932 (D)	—	Settled	Valid; the decision confirmed by the Council on May 10, 1932

†† Appeal to the High Commissioner against the Harbor Board

No	Decision and Date Issued	Appeal Date	Date of Later Agreement, If Any	Present Position of Case as Far as the League Is Concerned	Remarks
3	1932 (<i>Continued</i>) Jan 15. Personnel of Danzig citizens in the service of the Polish railway administration (D)	Feb. 26, 1932 (P)	—	Settled	Valid; the decision confirmed by the Council on May 10, 1932
4	Mar. 29. Provisional decision: Direct Action by Poland in the matter of the passive finishing trade (D)	May 8, 1932 (P)	—	Settled	Valid; Poland withdrew her appeal
5	Nov. 20 (i). The legality of the passive finishing trade in Danzig; the local frontier traffic; the practices of the Danzig customs administration; and the Polish demand for damages of 54,574,452 zloty (P)	Dec. 17, 1932 (D) Dec. 30, 1932 (P)	—	Settled	Valid; the decision confirmed by the Council Feb. 1, 1933; the question of damages was reserved for further consideration and has since been adjourned
6	Nov. 20 (ii). The suppression of the Danzig import quotas (P)	Dec. 17, 1932 (D) Dec. 30, 1932 (P)	Aug. 6, 1934 (Danzig)	Settled	Settled by the agreement of Aug. 6, 1934
7	Nov. 20 (iii) The free circulation on the Danzig - Polish customs territory of goods worked or transformed in Danzig; nationalization (D)	Dec 30, 1932 (P)	—	Settled	Valid; the decision confirmed by the Council on Feb. 1, 1933
1	1933 Mar. 31. The von Rutzen-Kotizkau case (D)	Supplementing the Decision of June 21, 1923, see above. This dispute was settled by an agreement (1928) which allowed no appeal			
1934—No decisions rendered					

APPENDIX J

FORM OF THE DOCUMENT OF RATIFICATION OF
TREATIES TO WHICH THE FREE CITY WAS A
CONTRACTING PARTY (ISSUED BY THE
PRESIDENT OF THE POLISH
REPUBLIC)¹

"In the name of the Polish Republic,
with which rests the conduct of the foreign affairs of the Free City of Danzig

We,

IGNAC MOSCICKI

President of the Polish Republic,

to all those to whom the present letters may come.

GREETING.

A Treaty having been signed on.... at.....
by the Government of the Polish Republic on behalf of the Free City of
Danzig, in virtue of Article 104 of the Treaty of Peace signed at Versailles
on June 28th, 1919, and of Article 2 of the Polish-Danzig Treaty, signed
in Paris on November 9th, 1920, and the Government of
the contents of which are as follows:

.....
Having seen and examined the said Treaty, and having consulted the Free
City, and found that the competent authorities of the Free City have taken
all the necessary constitutional steps with the view to the execution of the
Treaty in the territory of the Free City, We have approved and do approve
the same in all and sundry of the provisions contained therein, and declare
that the said Treaty is accepted, ratified and confirmed, and promise that it
shall be inviolably observed."

¹ According to the agreement of August 5, 1933 (*Official Journal*, October 1933,
p 1162).

APPENDIX K

THE FREE CITY AS A CONTRACTING PARTY TO TREATIES BETWEEN POLAND AND THE UNITED STATES

TREATY SERIES, NO. 727

AGREEMENT

effected by

Exchange of Notes

between the

United States and Poland

to which the Free City of Danzig

is a contracting party

According Mutual Unconditional

Most-Favored-Nation Treatment

in Customs Matters

Signed February 10, 1925

Ratified by Poland, September 14, 1925

[The Secretary of State to the Minister of Poland]

DEPARTMENT OF STATE

Washington, February 10, 1925

Sir:

I have the honor to make the following statement of my understanding of the agreement reached through recent conversations held at Washington on behalf of the Government of the United States and the Government of the Republic of Poland with reference to the treatment which the United States shall accord to the commerce of Poland and which Poland shall accord to the commerce of the United States pending the negotiation of a comprehensive treaty of friendship, commerce and consular rights

The Polish Government, which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Versailles and Articles 2 and 6 of the Treaty signed in Paris on November 9, 1920, between Poland and the Free City, declares that the Free City becomes a contracting party to this agreement and assumes the obligations and acquires the rights laid down therein. The above declaration does not relate to those stipulations of this agreement which are accepted by the Republic of Poland with regard to the Free City of Danzig on the basis of rights acquired by treaties.

.....

It is understood that this agreement is subject to ratification by the Polish Diet

I shall be glad to have your confirmation of the accord thus reached.

Accept, Sir, the renewed assurances of my highest consideration.

DR LADISLAS WRÓBLEWSKI

Minister of Poland

CHARLES E. HUGHES

[*The Minister of Poland to the Secretary of State*]

LEGATION OF POLAND
Washington, February 10, 1925

Sir:

I have the honor to make the following statement of my understanding of the agreement reached through recent conversations held at Washington . . .

.

The Polish Government, which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Versailles and Articles 2 and 6 of the Treaty signed in Paris on November 9, 1920, between Poland and the Free City, declares that the Free City becomes a contracting party to this agreement and assumes the obligations and acquires the rights laid down therein. The above declaration does not relate to those stipulations of this agreement which are accepted by the Republic of Poland with regard to the Free City of Danzig on the basis of rights acquired by treaties.

.

Accept, Sir, the renewed assurances of my highest consideration.

WL. WRÓBLEWSKI

THE HONORABLE CHARLES E. HUGHES
Secretary of State

TREATY SERIES, NO. 865

FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS

DECLARATION

by which the Free City of Danzig becomes
a contracting party to the treaty of June 15, 1931,
between the United States of America
and Poland (Treaty Series, No. 862)

Signed March 9, 1934
Effective March 24, 1934

[*The Secretary of State to the Polish Ambassador (Patch)*]

DEPARTMENT OF STATE
Washington, March 9, 1934

EXCELLENCY:

In compliance with your request, I have the honor on behalf of the Government of the United States of America to acknowledge the receipt of your note of this date, reading in translation as follows:

"Under instructions from my Government, I have the honor to communicate to your Excellency the following:

"The Polish Government, which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Peace, signed at Versailles, June 28, 1919, and under Articles 2 and 6 of the Convention between Poland and the Free City of Danzig, signed at Paris, November 9, 1920, declares, on behalf of Danzig and in execution

of the provisions of Article XXIX of the Treaty of Friendship, Commerce and Consular Rights between Poland and the United States of America, signed at Washington, June 15, 1931, that the Free City of Danzig shall become a contracting party of the said Treaty from the fifteenth day following the date of the receipt by the Government of the United States of America of this notification.

"I have the honor to request your Excellency to acknowledge receipt of this note."

The Government of the United States is happy to take note of this declaration, and will be pleased to recognize the Free City of Danzig as a contracting party to the Treaty of Friendship, Commerce and Consular Rights between the United States and Poland, signed at Washington, June 15, 1931, from March 24, 1934, the fifteenth day following the date on which the declaration hereby acknowledged was received by the Government of the United States.

Accept, Excellency, the renewed assurances of my highest consideration

CORDELL HULL

MR. STANISLAW PATEK,
Ambassador of Poland

APPENDIX L

STATE AND MUNICIPAL LOANS OF THE FREE CITY*

<i>State Loans</i>	Rate of Interest (per cent)	Amount (Gulden)	Year Due
1927 Tobacco Monopoly Loan...	6½	47,500,000	1947
1930 Match Monopoly Loan.....	6	1,000,000	1965
<i>Municipal Loans</i>			
1925 Sterling Loan.....	7 %	37,500,000	1945
1927 Loan..	6½%	5,600,000	1952
1927 Building Loan.....	6½%	5,882,350	1947
1928 Building Loan.....	6½%	4,776,620	1947
1928 Loan.....	6½%	80,000	1937
1929 Loan.....	5½%	2,200,000	1952
1930 Loan.....	5½%	1,434,300	.
1931 Loan.....	6 %	100,000	1942

* Table taken from Foster MS, "The Free City of Danzig," p 162, based on *Danziger Statistisches Taschenbuch*, 1934, pp. 119-20

APPENDIX M

POLITICAL PARTIES IN DANZIG*

Parties	Seats in the <i>Volkstag</i> elections					
	1920†	1923	1927	1930‡	1933	1935
<i>Right</i>						
Conservative - Nationalists . . .	34	33	25	10	41	3
Hitler Party	0	0	1	12	38‡	44
<i>Center</i>						
Catholic Center	17	15	18	11	10	9
Poles	7	5	3	2	2	2
<i>Left</i>						
Socialists 	40§	30	42	19	13	12
Communists	0§	11	8	7	5	2
<i>Other parties</i>	22	26	23	11	0	0
Total	120	120	120	72‡	72	72

* — Compiled by Andrew B. Foster on the basis of figures in the *Staatshandbuch der Freien Stadt Danzig* (Danzig, 1926), the *Danziger Statistische Taschenbücher* (Danzig, 1933 and 1934), and the *Danziger Vorposten*, April 8, 1935; see his *Danzig*, p. 317.

† The Constitutional Assembly, which continued its existence as the first *Volkstag*.

‡ The Constitutional Amendment of 1930 reduced the membership of the *Volkstag* from 120 to 72.

|| Including the Independent Socialist party which united with the Socialist party in 1922. One Socialist and two Nationalist deputies afterward went over to the Hitler party, thus raising its strength to 41.

§ In 1921 twelve members of the Socialist party withdrew to form the Communist party, but by 1923 several minor groups had merged themselves with the Socialists, who gained a new strength of 35 seats. This was reduced to 30 in the elections of 1923.

APPENDIX N

CONTROL OF THE ASSEMBLY (*VOLKSTAG*)
AND OF THE SENATE*

Years	Volkstag Control	President of the Senate
1920-1923	Coalition headed by Conservative-Nationalists	Sahm, Conservative-Nationalist
1923 June-December	Coalition headed by Socialists	Sahm, Conservative-Nationalist
1924-1927	Coalition headed by Conservative-Nationalists	Sahm, Conservative-Nationalist
1928-1930	Coalition headed by Socialists	Sahm, Independent
1930-1933	Coalition headed by Conservative-Nationalists	Ziehm, Conservative-Nationalist
1933-1939	Absolute majority of Hitler party	Rauschning, Hitler party (June 1933—November 1934) Greiser, Hitler party (November 1934—September 1939)

* Compiled by Foster, see his MS, "The Free City of Danzig," p. 317.

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